Volume 3

STATUTES OF CALIFORNIA

AND DIGESTS OF MEASURES

1991

Constitution of 1879 as Amended

General Laws, Amendments to the Codes,
and Resolutions passed by the
California Legislature

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CHAPTER 914

An act to add and repeal Article 16.5 (commencing with Section 8385) to Chapter 2 of Part 6 of the Education Code, relating to child care, and making an appropriation therefor.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) The incidence of substance exposed children is dramatically increasing in California. The 1989 Policy Analysis for California Education (PACE) report, "Conditions of Children in California," states that 10 to 15 percent of the infants born in urban public hospitals in California are addicted to drugs or alcohol.

(b) Substance exposed children, from infancy, exhibit a variety of behavioral difficulties, including, but not limited to, attention disorders, disruptive actions, and withdrawal, as well as learning disabilities and physical symptoms from congenital abnormalities. These behavioral difficulties can stem from dysfunctional family environments, as well as prenatal substance exposure.

(c) Numerous legislative task forces, policy forums, and conferences have focused on encouraging drug free pregnancies, and intervention and treatment for substance exposed infants.

(d) The population of substance exposed children enrolled in child development programs, including infant, toddler, preschool, and schoolage programs, is increasing and it is becoming necessary to provide professional training to child development staff who serve these children.

SEC. 2. Article 16.5 (commencing with Section 8385) is added to Chapter 2 of Part 6 of the Education Code, to read:

Article 16.5. Professional Development and Training for Staff Serving Substance Exposed Children

8385. The Legislature hereby recognizes that staff employed in child development programs administered by the State Department of Education need a comprehensive professional development plan to address the needs of children exposed to drugs, including alcohol, in utero and their families that emphasizes training in day-to-day teaching and caregiving strategies for these children in a group setting. It is the intent of the Legislature, therefore, to promote establishment of professional development and training systems for all child development staff serving infant, toddler, preschool, and schoolage programs.

8385.1. The Superintendent of Public Instruction, with input

from experts in identifying and serving substance exposed children, shall design a professional staff development system to accomplish the following:

(a) Compile factual information on the conditions and behaviors of substance exposed children enrolled in child development programs.

(b) Establish a cadre of trained professionals who can identify substance exposed children who are exhibiting behavioral difficulties and who can train child development staff in teaching and caregiving methods and techniques designed for the substance exposed child.

8385.2. The superintendent shall award grants to school districts, childrens' hospitals, and county agencies, based on an application and selection process developed by the superintendent, to accomplish any or all of the following:

(a) Identify and review training materials and techniques that can be used by aides, teachers, supervisors, program directors, administrators, and other staff employed in child development programs.

(b) Perform local and regional staff development activities throughout the state to present training materials and techniques identified in subdivision (a).

(c) Provide ongoing reinforcement and support to the cadre of trained professionals established in Section 8385.1 to maintain their expertise.

(d) Conduct research to develop additional materials designed to be used with substance exposed children in child development settings as those materials are needed.

8385.3. This article shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1994, deletes or extends that date.

SEC. 3. The sum of two hundred fifty thousand dollars ($250,000) is hereby appropriated to the Superintendent of Public Instruction from funds received pursuant to the federal Child Care and Development Block Grant Act of 1990, established by the Omnibus Budget Reconciliation Act of 1990, Public Law 101-508, for the purposes of administering the grant program and providing grants pursuant to Article 16.5 (commencing with Section 8385) of Chapter 2 of Part 6 of the Education Code. Administrative costs of the superintendent shall not exceed 3 percent of this appropriation.

These funds shall be made available for professional development and training for staff employed in child development programs only to the extent that the use of these funds for these purposes is incorporated into, and approved as a part of, the state plan that is required pursuant to Section 658E(a) of the federal Child Care and Development Block Grant Act of 1990.

CHAPTER 915

An act to amend Sections 116.130, 116.220, 116.230, 116.231, 116.310, 116.320, 116.340, 116.370, 116.390, 116.430, 116.510, 116.530, 116.540, 116.550, 116.610, 116.720, 116.730, 116.740, 116.750, 116.760, 116.770, 116.780, 116.790, 116.810, 116.820, 116.830, 116.850, 116.860, 116.880, 116.910, and 116.920 of, to amend and renumber Section 116.380 of, to add Sections 116.140, 116.560, and 116.570 to, and to repeal Sections 116.350 and 116.360 of, the Code of Civil Procedure, relating to small claims court.

[Approved by Governor October 13, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 116.130 of the Code of Civil Procedure is amended to read:

116.130. In this chapter, unless the context indicates otherwise:

(a) "Plaintiff" means the party who has filed a small claims action; the term includes a defendant who has filed a claim against a plaintiff.

(b) "Defendant" means the party against whom the plaintiff has filed a small claims action; the term includes a plaintiff against whom a defendant has filed a claim.

(c) "Judgment creditor" means the party, whether plaintiff or defendant, in whose favor a money judgment has been rendered.

(d) "Judgment debtor" means the party, whether plaintiff or defendant, against whom a money judgment has been rendered.

(e) "Person" means an individual, corporation, partnership, firm, association, or other entity.

(f) "Individual" means a natural person.

(g) "Party" means a plaintiff or defendant.

(h) "Motion" means a party's written request to the court for an order or other action; the term includes an informal written request to the court, such as a letter.

(i) "Declaration" means a written statement signed by an individual which includes the date and place of signing, and a statement under penalty of perjury that its contents are true and correct.

(j) "Good cause" means circumstances sufficient to justify the requested order or other action, as determined by the judge.

(k) "Mail" means first-class mail with postage fully prepaid, unless stated otherwise.

SEC. 2. Section 116.140 is added to the Code of Civil Procedure, to read:

116.140. The following do not apply in small claims actions:

(a) Subdivision (a) of Section 1013 and subdivision (b) of Section 1005, on the extension of the time for taking action when notice is

given by mail.

(b) Title 6.5 (commencing with Section 481.010) of Part 2, on the issuance of prejudgment attachments.

SEC. 3. Section 116.220 of the Code of Civil Procedure is amended to read:

116.220. (a) The small claims court shall have jurisdiction in the following actions:

(1) Except as provided in subdivision (c), for recovery of money, if the amount of the demand does not exceed five thousand dollars ($5,000).

(2) Except as provided in subdivision (c), to enforce payment of delinquent unsecured personal property taxes in an amount not to exceed five thousand dollars ($5,000), if the legality of the tax is not contested by the defendant.

(3) In unlawful detainer, after default in rent for residential property, if the term of tenancy is not longer than month to month and the amount of the demand does not exceed five thousand dollars ($5,000).

(4) To issue the writ of possession authorized by Sections 1861.5 and 1861.10 of the Civil Code if the amount of the demand does not exceed five thousand dollars ($5,000).

(b) In any action seeking relief authorized by subdivision (a), the court may grant equitable relief in the form of rescission, restitution, reformation, and specific performance, in lieu of, or in addition to, money damages, and shall retain jurisdiction until full payment and performance of any judgment or order.

(c) Notwithstanding subdivision (a), the small claims court shall have jurisdiction over a defendant guarantor who is required to respond based upon the default, actions, or omissions of another, only if the demand does not exceed one thousand five hundred dollars ($1,500).

(d) In any case in which the lack of jurisdiction is due solely to an excess in the amount of the demand, the excess may be waived, but any waiver shall not become operative until judgment.

SEC. 4. Section 116.230 of the Code of Civil Procedure is amended to read:

116.230. (a) A fee of eight dollars ($8) shall be charged and collected for the filing of a claim if the number of claims previously filed by the party in each court within the calendar year is 12 or less; and a fee of sixteen dollars ($16) shall be collected for the filing of any additional claims.

(b) A fee to cover the actual cost of court service by mail, adjusted upward to the nearest dollar, shall be charged and collected for each defendant to whom the court clerk mails a copy of the claim under Section 116.340.

(c) The number of claims filed by a party during the calendar year shall be determined by a declaration by the party stating the number of claims so filed and submitted to the clerk with the current claim.

SEC. 5. Section 116.231 of the Code of Civil Procedure is

amended to read:

116.231. (a) No person may file more than two small claims actions in which the amount demanded exceeds two thousand five hundred dollars ($2,500), anywhere in the state in any calendar year.

(b) If the amount demanded in any small claims action exceeds two thousand five hundred dollars ($2,500), the party making the demand shall file a declaration under penalty of perjury attesting to the fact that not more than two small claims actions in which the amount of the demand exceeded two thousand five hundred dollars ($2,500) have been filed by that party in this state within the calendar year.

SEC. 6. Section 116.310 of the Code of Civil Procedure is amended to read:

116.310. (a) No formal pleading other than the claim described in Section 116.320 or 116.380, is necessary to initiate a small claims action.

(b) The pretrial discovery procedures described in subdivision (a) of Section 2019 are not permitted in small claims actions.

SEC. 7. Section 116.320 of the Code of Civil Procedure is amended to read:

116.320. (a) A plaintiff may commence an action in the small claims court by filing a claim under oath with the clerk of the small claims court in person or by mail.

(b) The claim form shall be a simple nontechnical form approved or adopted by the Judicial Council. The claim form shall set forth a place for (1) the name and address of the defendant, if known; (2) the amount and the basis of the claim; (3) that the plaintiff, where possible, has demanded payment and, in applicable cases, possession of the property; (4) that the defendant has failed or refused to pay, and, where applicable, has refused to surrender the property; and (5) that the plaintiff understands that the judgment on his or her claim will be conclusive and without a right of appeal.

(c) The form or accompanying instructions shall include information that the plaintiff (1) may not be represented by an attorney, (2) has no right of appeal, and (3) may ask the court to waive fees for filing and serving the claim on the ground that the plaintiff is unable to pay them, using the forms approved by the Judicial Council for that purpose.

SEC. 8. Section 116.340 of the Code of Civil Procedure is amended to read:

116.340. (a) Service of the claim and order on the defendant may be made by any one of the following methods:

(1) The clerk may cause a copy of the claim and order to be mailed to the defendant by any form of mail providing for a return receipt.

(2) The plaintiff may cause a copy of the claim and order to be delivered to the defendant in person.

(3) The plaintiff may cause service of a copy of the claim and order to be made by substituted service as provided in subdivision

(a) or (b) of Section 415.20 without the need to attempt personal service on the defendant.

(4) The clerk may cause a copy of the claim to be mailed, the order to be issued, and a copy of the order to be mailed as provided in subdivision (b) of Section 116.330.

(b) Service of the claim and order on the defendant shall be completed at least 10 days before the hearing date if the defendant resides within the county in which the action is filed, or at least 15 days before the hearing date if the defendant resides outside the county in which the action is filed.

(c) Service by the methods described in subdivision (a) shall be deemed complete on the date that the defendant signs the mail return receipt, on the date of the personal service, as provided in Section 415.20, or as established by other competent evidence, whichever applies to the method of service used.

(d) Service shall be made within this state, except as provided in subdivisions (e) and (f).

(e) The owner of record of real property in California who resides in another state and who has no lawfully designated agent in California for service of process may be served by any of the methods described in this section if the claim relates to that property.

(f) Service on the Director of the Department of Motor Vehicles, and notice to the defendant, if made by any of the methods permitted in this section for service of a claim and order, shall satisfy the requirements of Sections 17450 to 17461, inclusive, of the Vehicle Code, on constructive service on a nonresident owner or operator of a motor vehicle involved in an accident in this state.

(g) If an action is filed against a principal and his or her guaranty or surety pursuant to a guarantor or suretyship agreement, a reasonable attempt shall be made to complete service on the principal. If service is not completed on the principal, the action shall be transferred to the court of appropriate jurisdiction.

SEC. 9. Section 116.350 of the Code of Civil Procedure is repealed.

SEC. 10. Section 116.360 of the Code of Civil Procedure is repealed.

SEC. 10.5. Section 116.370 of the Code of Civil Procedure is amended to read:

116.370. (a) Venue in small claims actions shall be the same as in other civil actions.

(b) A defendant may challenge venue by writing to the court, without personally appearing at the hearing.

(c) In all cases, including those in which the defendant does not either challenge venue or appear at the hearing, the court shall inquire into the facts sufficiently to determine whether venue is proper, and shall make its determination accordingly.

(d) If the court determines that the action was not commenced in the proper venue, the court, on its own motion, shall dismiss the action without prejudice unless all defendants are present and agree

that the action may be heard.

(e) If the court determines that the action was commenced in the proper venue, the court may hear the case if all parties are present. If all parties are not present, the court shall postpone the hearing for at least 15 days and shall notify all parties by mail of the court's decision and the new hearing date, time, and place.

SEC. 11. Section 116.380 of the Code of Civil Procedure is amended and renumbered to read:

116.360. (a) The defendant may file a claim against the plaintiff in the same action in an amount not to exceed the jurisdictional limits stated in Sections 116.220 and 116.231.

(b) The defendant's claim shall be filed and served in the manner provided for filing and serving a claim of the plaintiff under Sections 116.330 and 116.340.

(c) The defendant shall cause a copy of the claim and order to be served on the plaintiff at least five days before the hearing date, unless the defendant was served 10 days or less before the hearing date, in which event the defendant shall cause a copy of the defendant's claim and order to be served on the plaintiff at least one day before the hearing date.

SEC. 11.5. Section 116.390 of the Code of Civil Procedure is amended to read:

116.390. (a) If a defendant has a claim against a plaintiff that exceeds the jurisdictional limits stated in Sections 116.220 and 116.231, and the claim relates to the contract, transaction, matter, or event which is the subject of the plaintiff's claim, the defendant may commence an action against the plaintiff in a court of competent jurisdiction and request the small claims court to transfer the small claims action to that court.

(b) The defendant may make the request by filing with the small claims court in which the plaintiff commenced the action, at or before the time set for the hearing of that action, a declaration stating the facts concerning the defendant's action against the plaintiff with a true copy of the complaint so filed by the defendant against the plaintiff and the sum of one dollar ($1) for a transmittal fee. The defendant shall cause a copy of the declaration and complaint to be personally delivered to the plaintiff at or before the time set for the hearing of the small claims action.

(c) The small claims court shall not transfer the action until after a judgment is rendered unless the ends of justice would be served. If the small claims action is transferred prior to judgment, both actions shall be tried together in the transferee court.

(d) When the small claims court orders the action transferred, it shall transmit all files and papers to the transferee court.

(e) The plaintiff in the small claims action shall not be required to pay to the clerk of the transferee court any transmittal, appearance, or filing fee unless the plaintiff appears in the transferee court, in which event the plaintiff shall be required to pay the filing fee and any other fee required of a defendant in the transferee court.

However, if the transferee court rules against the plaintiff in the action filed in that court, the court may award to the defendant in that action the costs incurred as a consequence of the transfer, including attorney's fees and filing fees.

SEC. 12. Section 116.430 of the Code of Civil Procedure is amended to read:

116.430. (a) If the plaintiff operates or does business under a fictitious business name and the claim relates to that business, the claim shall be accompanied by the filing of a declaration stating that the plaintiff has complied with the fictitious business name laws by executing, filing, and publishing a fictitious business name statement as required.

(b) A small claims action filed by a person who has not complied with the applicable fictitious business name laws by executing, filing, and publishing a fictitious business name statement as required shall be dismissed without prejudice.

(c) For purposes of this section, "fictitious business name" means the term as defined in Section 17900 of the Business and Professions Code, and "fictitious business name statement" means the statement described in Section 17913 of the Business and Professions Code.

SEC. 13. Section 116.510 of the Code of Civil Procedure is amended to read:

116.510. The hearing and disposition of the small claims action shall be informal, the object being to dispense justice promptly, fairly, and inexpensively.

SEC. 14. Section 116.530 of the Code of Civil Procedure is amended to read:

116.530. (a) Except as permitted by this section, no attorney may take part in the conduct or defense of a small claims action.

(b) Subdivision (a) does not apply if the attorney is appearing to maintain or defend an action (1) by or against himself or herself, (2) by or against a partnership in which he or she is a general partner and in which all the partners are attorneys, or (3) by or against a professional corporation of which he or she is an officer or director and of which all other officers and directors are attorneys.

(c) Nothing in this section shall prevent an attorney from (1) providing advice to a party to a small claims action, either before or after the commencement of the action; (2) testifying to facts of which he or she has personal knowledge and about which he or she is competent to testify; (3) representing a party in an appeal to the superior court; and (4) representing a party in connection with the enforcement of a judgment.

SEC. 15. Section 116.540 of the Code of Civil Procedure is amended to read:

116.540. (a) Except as permitted by this section, no individual other than the plaintiff and the defendant may take part in the conduct or defense of a small claims action.

(b) A corporation may appear and participate in a small claims action only through a regular employee, or a duly appointed or

elected officer or director, who is employed, appointed, or elected for purposes other than solely representing the corporation in small claims court.

(c) A party other than a corporation or a natural person may appear and participate in a small claims action only through a regular employee, or a duly appointed or elected officer or director, or in the case of a partnership, a partner, engaged for purposes other than solely representing the party in small claims court.

(d) A party may appear and participate in a small claims action by a representative and without personally appearing if both of the following conditions are met:

(1) The claim can be proved or disputed by evidence of an account that constitutes a business record as defined in Section 1271 of the Evidence Code, and there is no other issue of fact in the case.

(2) The representative is a regular employee, or a duly appointed or elected officer or director of the party, who is employed, appointed, or elected for purposes other than solely representing the party in small claims actions and is qualified to testify to the identity and mode of preparation of the business record.

(e) A plaintiff is not required to personally appear, and may submit declarations to serve as evidence supporting his or her claim or allow another individual to appear and participate on his or her behalf, if (1) the plaintiff is serving on active duty in the United States armed forces outside this state, (2) the plaintiff was assigned to his or her duty station after his or her claim arose, (3) the assignment is for more than six months, (4) the representative is serving without compensation, and (5) the representative has appeared in small claims actions on behalf of others no more than four times during the calendar year. The defendant may file a claim in the same action in an amount not to exceed the jurisdictional limits stated in Sections 116.220 and 116.231.

(f) A party incarcerated in a county jail, a Department of Corrections facility, or a Youth Authority facility is not required to personally appear, and may submit declarations to serve as evidence supporting his or her claim, or may authorize another individual to appear and participate on his or her behalf if that individual is serving without compensation and has appeared in small claims actions on behalf of others no more than four times during the calendar year.

(g) A defendant who is a nonresident owner of real property is not required to personally appear, and may submit written declarations to serve as evidence supporting his or her defense, or may allow another individual to appear and participate on his or her behalf if that individual is serving without compensation and has appeared in small claims actions on behalf of others no more than four times during the calendar year.

(h) At the hearing of a small claims action, the court shall require any individual who is appearing as a representative of a party under subdivision (b), (c), (d), (e), (f), or (g) to file a declaration stating

(1) that the individual is authorized to appear for the party, and (2) the basis for that authorization. If the representative is appearing under subdivision (b), (c), or (d), the declaration also shall state that the individual is not employed solely to represent the party in small claims court. If the representative is appearing under subdivision (e), (f), or (g), the declaration also shall state that the representative is serving without compensation, and has appeared in small claims actions on behalf of others no more than four times during the calendar year.

(i) A husband or wife who sues or who is sued with his or her spouse may appear and participate on behalf of his or her spouse if (1) the claim is a joint claim, (2) the represented spouse has given his or her consent, and (3) the court determines that the interests of justice would be served.

(j) If the court determines that a party cannot properly present his or her claim or defense and needs assistance, the court may in its discretion allow another individual to assist that party.

(k) Nothing in this section shall operate or be construed to authorize an attorney to participate in a small claims action except as expressly provided in Section 116.530.

SEC. 16. Section 116.550 of the Code of Civil Procedure is amended to read:

116.550. (a) If the court determines that a party does not speak or understand English sufficiently to comprehend the proceedings or give testimony, and needs assistance in so doing, the court may permit another individual (other than an attorney) to assist that party.

(b) Each small claims court shall make a reasonable effort to maintain and make available to the parties a list of interpreters who are able and willing to aid parties in small claims actions either for no fee, or for a fee which is reasonable considering the nature and complexity of the claims. The list shall include interpreters for all languages that require interpretation before the court, as determined by the court in its discretion and in view of the court's experience.

(c) Failure to maintain a list of interpreters, or failure to include an interpreter for a particular language, shall not invalidate any proceedings before the court.

SEC. 17. Section 116.560 is added to the Code of Civil Procedure, to read:

116.560. (a) Whenever a claim that is filed against a person operating or doing business under a fictitious business name relates to the defendant's business, the court shall inquire at the time of the hearing into the defendant's correct legal name and the name or names under which the defendant does business. If the correct legal name of the defendant, or the name actually used by the defendant, is other than the name stated on the claim, the court shall amend the claim to state the correct legal name of the defendant, and the name or names actually used by the defendant.

(b) The plaintiff may request the court at any time, whether before or after judgment, to amend the plaintiff's claim or judgment to include both the correct legal name and the name or names actually used by the defendant. Upon a showing of good cause, the court shall amend the claim or judgment to state the correct legal name of the defendant, and the name or names actually used by the defendant.

(c) For purposes of this section, "fictitious business name" means the term as defined in Section 17900 of the Business and Professions Code.

SEC. 18. Section 116.570 is added to the Code of Civil Procedure, to read:

116.570. (a) Any party may submit a written request for postponement of a hearing date.

(1) The written request may be made either by letter or on a form adopted or approved by the Judicial Council.

(2) On the date of making the written request, the requesting party shall mail or personally deliver a copy to each of the other parties to the action.

(3) If the court finds that the interests of justice would be served by postponing the hearing, the court shall postpone the hearing, and shall notify all parties by mail of the new hearing date, time, and place.

(4) The court shall provide a prompt response by mail to any person making a written request for postponement of a hearing date under this subdivision.

(b) If service of the claim and order upon the defendant is not completed within the number of days before the hearing date required by subdivision (b) of Section 116.340, and the defendant has not personally appeared and has not requested a postponement, the court shall postpone the hearing for at least 15 days. If a postponement is ordered under this subdivision, the clerk shall promptly notify all parties by mail of the new hearing date, time, and place.

(c) Nothing in this section limits the inherent power of the court to order postponements of hearings in appropriate circumstances.

SEC. 19. Section 116.610 of the Code of Civil Procedure is amended to read:

116.610. (a) The court shall give judgment for damages, or equitable relief, or both damages and equitable relief, within the jurisdictional limits stated in Sections 116.220 and 116.231, and may make such orders as to time of payment or otherwise as the court deems just and equitable for the resolution of the dispute.

(b) The judgment shall include a determination whether the judgment resulted from a motor vehicle accident on a California highway caused by the defendant's operation of a motor vehicle, or by the operation by some other individual, of a motor vehicle registered in the defendant's name.

(c) If the defendant has filed a claim against the plaintiff, or if the

judgment is against two or more defendants, the judgment, and the statement of decision if one is rendered, shall specify the basis for and the character and amount of the liability of each of the parties, including, in the case of multiple judgment debtors, whether the liability of each is joint or several.

(d) In an action against several defendants, the court may, in its discretion, render judgment against one or more of them, leaving the action to proceed against the others, whenever a several judgment is proper.

(e) The prevailing party is entitled to the costs of the action, including the costs of serving the order for the appearance of the defendant.

(f) When the court renders judgment, the clerk shall promptly deliver or mail notice of entry of the judgment to the parties, and shall execute a certificate of personal delivery or mailing and place it in the file.

(g) The notice of entry of judgment shall be on a form approved or adopted by the Judicial Council.

SEC. 20. Section 116.720 of the Code of Civil Procedure is amended to read:

116.720. (a) A plaintiff who did not appear at the hearing in the small claims court may file a motion to vacate the judgment with the clerk of the small claims court. The motion shall be filed within 30 days after the clerk has mailed notice of entry of the judgment to the parties.

(b) The clerk shall schedule the hearing on the motion to vacate for a date no earlier than 10 days after the clerk has mailed written notice of the date, time, and place of the hearing to the parties.

(c) Upon a showing of good cause, the small claims court may grant the motion. If the defendant is not present, the court shall hear the motion in the defendant's absence.

(d) If the motion is granted, and if all parties are present and agree, the court may hear the case without rescheduling it. If the defendant is not present, the judge or clerk shall reschedule the case and give notice in accordance with Section 116.330.

SEC. 21. Section 116.730 of the Code of Civil Procedure is amended to read:

116.730. (a) A defendant who did not appear at the hearing in the small claims court may file a motion to vacate the judgment with the clerk of the small claims court. The motion shall be filed within 30 days after the clerk has mailed notice of entry of the judgment to the parties.

(b) The defendant shall appear at any hearing on the motion, or submit written justification for not appearing together with a declaration in support of the motion.

(c) Upon a showing of good cause, the court may grant the motion to vacate the judgment. If the plaintiff is not present, the court shall hear the motion in the plaintiff's absence.

(d) If the motion is granted, and if all parties are present and

agree, the court may hear the case without rescheduling it. If the plaintiff is not present, the judge or clerk shall reschedule the case and give notice in accordance with Section 116.330.

(e) If the motion is denied, the defendant may appeal to the superior court only on the denial of the motion to vacate the judgment. The defendant shall file the notice of appeal with the clerk of the small claims court within 10 days after the small claims court has mailed or delivered notice of the court's denial of the motion to vacate the judgment.

(f) If the superior court determines that the defendant's motion to vacate the judgment should have been granted, the superior court may hear the claims of all parties without rescheduling the matter, provided that all parties are present and the defendant has previously complied with this article, or may order the case transferred to the small claims court for a hearing.

SEC. 22. Section 116.740 of the Code of Civil Procedure is amended to read:

116.740. (a) If the defendant was not properly served as required by Section 116.330 or 116.340 and did not appear at the hearing in the small claims court, the defendant may file a motion to vacate the judgment with the clerk of the small claims court. The motion shall be accompanied by a supporting declaration, and shall be filed within 180 days after the defendant discovers or should have discovered that judgment was entered against the defendant.

(b) The court may order that the enforcement of the judgment shall be suspended pending a hearing and determination of the motion to vacate the judgment.

(c) Upon a showing of good cause, the court may grant the motion to vacate the judgment. If the plaintiff is not present, the court shall hear the motion in the plaintiff's absence.

(d) Subdivisions (d), (e), and (f) of Section 116.730 apply to any motion to vacate a judgment.

SEC. 23. Section 116.750 of the Code of Civil Procedure is amended to read:

116.750. (a) An appeal from a judgment in a small claims action is taken by filing a notice of appeal with the clerk of the small claims court.

(b) A notice of appeal shall be filed not later than 30 days after the clerk has delivered or mailed notice of entry of the judgment to the parties. A notice of appeal filed after the 30-day period is ineffective for any purpose.

(c) The time for filing a notice of appeal is not extended by the filing of a request to correct a mistake or by virtue of any subsequent proceedings on that request, except that a new period for filing notice of appeal shall begin on the delivery or mailing of notice of entry of any modified judgment.

SEC. 24. Section 116.760 of the Code of Civil Procedure is amended to read:

116.760. (a) The appealing party shall pay the same superior

court filing fee that is required for an appeal of a civil action from a justice or municipal court.

(b) A party who does not appeal shall not be charged any fee for filing any document in the superior court.

SEC. 25. Section 116.770 of the Code of Civil Procedure is amended to read:

116.770. (a) The appeal to the superior court shall consist of a new hearing.

(b) The hearing on an appeal to the superior court shall be conducted informally. The pretrial discovery procedures described in subdivision (a) of Section 2019 are not permitted and no tentative decision or statement of decision is required.

(c) Article 5 (commencing with Section 116.510) on hearings in the small claims court applies in hearings on appeal in the superior court, except that attorneys may participate.

(d) The scope of the hearing shall include the claims of all parties who were parties to the small claims action at the time the notice of appeal was filed. The hearing shall include the claim of a defendant which was heard in the small claims court.

(e) The clerk of the superior court shall schedule the hearing for the earliest available time and shall mail written notice of the hearing to the parties at least 14 days prior to the time set for the hearing.

(f) The Judicial Council may prescribe by rule the practice and procedure on appeal and the time and manner in which the record on appeal shall be prepared and filed.

SEC. 26. Section 116.780 of the Code of Civil Procedure is amended to read:

116.780. (a) The judgment of the superior court after a hearing on appeal is final and not appealable.

(b) Article 6 (commencing with Section 116.610) on judgments of the small claims court applies to judgments of the superior court after a hearing on appeal, except as provided in subdivisions (c) and (d).

(c) For good cause and where necessary to achieve substantial justice between the parties, the superior court may award a party to an appeal reimbursement of (1) attorney's fees actually and reasonably incurred in connection with the appeal, not exceeding one hundred fifty dollars ($150), and (2) actual loss of earnings and expenses of transportation and lodging actually and reasonably incurred in connection with the appeal, not exceeding one hundred fifty dollars ($150).

(d) Upon the completion of the appeal process, the superior court shall order the appeal and any judgment transferred to the small claims court in which the action was originally filed for purposes of enforcement and other proceedings under Article 8 (commencing with Section 116.810) of this chapter.

SEC. 27. Section 116.790 of the Code of Civil Procedure is amended to read:

116.790. If the superior court finds that the appeal was without substantial merit and not based on good faith, but was intended to

harass or delay the other party, or to encourage the other party to abandon the claim, the court may award the other party (a) attorney's fees actually and reasonably incurred in connection with the appeal, not exceeding one thousand dollars ($1,000), and (b) any actual loss of earnings and any expenses of transportation and lodging actually and reasonably incurred in connection with the appeal, not exceeding one thousand dollars ($1,000), following a hearing on the matter.

SEC. 28. Section 116.810 of the Code of Civil Procedure is amended to read:

116.810. (a) Enforcement of the judgment of a small claims court, including the issuance or recording of any abstract of the judgment, is automatically suspended, without the filing of a bond by the defendant, until the expiration of the time for appeal.

(b) If an appeal is filed as provided in Article 7 (commencing with Section 116.710), enforcement of the judgment of the small claims court is suspended unless (1) the appeal is dismissed by the superior court pursuant to Section 116.795, or (2) the superior court determines that the small claims court properly denied the defendant's motion to vacate filed under Section 116.730 or 116.740. In either of those events, the judgment of the small claims court may be enforced.

(c) The scope of the suspension of enforcement under this section and, unless otherwise ordered, of any suspension of enforcement ordered by the court, shall include any enforcement procedure described in Title 9 (commencing with Section 680.010) of Part 2 and in Sections 674 and 1174.

SEC. 29. Section 116.820 of the Code of Civil Procedure is amended to read:

116.820. (a) The judgment of a small claims court may be enforced as provided in Title 9 (commencing with Section 680.010) of Part 2 and in Sections 674 and 1174 on the enforcement of judgments of other courts. A judgment of the superior court after a hearing on appeal, and after transfer to the small claims court under subdivision (d) of Section 116.780, may be enforced like other judgments of the small claims court, as provided in Title 9 (commencing with Section 680.010) of Part 2 and in Sections 674 and 1174 on the enforcement of judgments of other courts.

(b) Fees as provided in Sections 26828 and 26834 of the Government Code shall be charged and collected by the clerk for the issuance of a writ of execution or an abstract of judgment.

(c) The prevailing party in any action subject to this chapter is entitled to the costs of enforcing the judgment and accrued interest.

SEC. 30. Section 116.830 of the Code of Civil Procedure is amended to read:

116.830. (a) At the time judgment is rendered, or notice of entry of the judgment is mailed to the parties, the clerk shall deliver or mail to the judgment debtor a form containing questions regarding the nature and location of any assets of the judgment debtor.

(b) Within 30 days after the clerk has mailed notice of entry of the judgment, unless the judgment has been satisfied, the judgment debtor shall complete the form and cause it to be delivered to the judgment creditor.

(c) In the event a motion is made to vacate the judgment or a notice of appeal is filed, a judgment debtor shall complete and deliver the form within 30 days after the clerk has delivered or mailed notice of denial of the motion to vacate, or notice of dismissal of or entry of judgment on the appeal, whichever is applicable.

(d) In case of the judgment debtor's willful failure to comply with subdivision (b) or (c), the judgment creditor may request the court to apply the sanctions, including arrest and attorney's fees, as provided in Section 708.170, on contempt of court.

(e) The Judicial Council shall approve or adopt the form to be used for the purpose of this section.

SEC. 31. Section 116.850 of the Code of Civil Procedure is amended to read:

116.850. (a) If full payment of the judgment is made to the judgment creditor or to the judgment creditor's assignee of record, then immediately upon receipt of payment, the judgment creditor or assignee shall file with the clerk of the court an acknowledgment of satisfaction of the judgment.

(b) Any judgment creditor or assignee of record who, after receiving full payment of the judgment and written demand by the judgment debtor, fails without good cause to execute and file an acknowledgment of satisfaction of the judgment with the clerk of the court in which the judgment is entered within 14 days after receiving the request, is liable to the judgment debtor or the judgment debtor's grantees or heirs for all damages sustained by reason of the failure and, in addition, the sum of fifty dollars ($50).

(c) The clerk of the court shall enter a satisfaction of judgment at the request of the judgment debtor if the judgment debtor either (1) establishes a rebuttable presumption of full payment under subdivision (d), or (2) establishes a rebuttable presumption of partial payment under subdivision (d) and complies with subdivision (c) of Section 116.860.

(d) A rebuttable presumption of full or partial payment of the judgment, whichever is applicable, is created if the judgment debtor files both of the following with the clerk of the court in which the judgment was entered:

(1) Either a canceled check or money order for the full or partial amount of the judgment written by the judgment debtor after judgment and made payable to and endorsed by the judgment creditor, or a cash receipt for the full or partial amount of the judgment written by the judgment debtor after judgment and signed by the judgment creditor.

(2) A declaration stating that (A) the judgment debtor has made full or partial payment of the judgment including accrued interest and costs; (B) the judgment creditor has been requested to file an

acknowledgment of satisfaction of the judgment and refuses to do so, or refuses to accept subsequent payments, or the present address of the judgment creditor is unknown; and (C) the documents identified in and accompanying the declaration constitute evidence of the judgment creditor's receipt of full or partial payment.

SEC. 32. Section 116.860 of the Code of Civil Procedure is amended to read:

116.860. (a) A judgment debtor who desires to make payment to the court in which the judgment was entered may file a request to make payment, which shall be made on a form approved or adopted by the Judicial Council.

(b) Upon the filing of the request to make payment and the payment to the clerk of the amount of the judgment and any accrued interest and costs after judgment, plus any required fee authorized by this section, the clerk shall enter satisfaction of the judgment and shall remit payment to the judgment creditor as provided in this section.

(c) If partial payment of the judgment has been made to the judgment creditor, and the judgment debtor files the declaration and evidence of partial payment described in subdivision (d) of Section 116.850, the clerk shall enter satisfaction of the judgment upon receipt by the clerk of the balance owing on the judgment, including any accrued interest and costs after judgment, and the fee required by this section.

(d) If payment is made by means other than money order, certified or cashier's check, or cash, entry of satisfaction of the judgment shall be delayed for 30 days.

(e) The clerk shall notify the judgment creditor, at his or her last known address, that the judgment debtor has satisfied the judgment by making payment to the court. The notification shall explain the procedures which the judgment creditor has to follow to receive payment.

(f) For purposes of this section, "costs after judgment" consist of only those costs itemized in a memorandum of costs filed by the judgment creditor or otherwise authorized by the court.

(g) Payments that remain unclaimed shall go to the local agency pursuant to Sections 50050 to 50056, inclusive, of the Government Code.

(h) The board of supervisors shall set a fee, not to exceed the actual costs of administering this section, up to a maximum of twenty-five dollars ($25), which shall be paid by the judgment debtor.

SEC. 33. Section 116.880 of the Code of Civil Procedure is amended to read:

116.880. (a) If the judgment (1) was for five hundred dollars ($500) or less, (2) resulted from a motor vehicle accident occurring on a California highway caused by the defendant's operation of a motor vehicle, and (3) has remained unsatisfied for more than 90 days after the judgment became final, the judgment creditor may file

with the Department of Motor Vehicles a notice requesting a suspension of the judgment debtor's privilege to operate a motor vehicle.

(b) The notice shall state that the judgment has not been satisfied, and shall be accompanied by (1) a fee set by the department, (2) the judgment of the court determining that the judgment resulted from a motor vehicle accident occurring on a California highway caused by the judgment debtor's operation of a motor vehicle, and (3) a declaration that the judgment has not been satisfied. The fee shall be used by the department to finance the costs of administering this section and shall not exceed the department's actual costs.

(c) Upon receipt of a notice, the department shall attempt to notify the judgment debtor by telephone, if possible, otherwise by certified mail, that the judgment debtor's privilege to operate a motor vehicle will be suspended for a period of 90 days, beginning 20 days after receipt of notice by the department from the judgment creditor, unless satisfactory proof, as provided in subdivision (e), is provided to the department before that date.

(d) At the time the notice is filed, the department shall give the judgment creditor a copy of the notice, which shall indicate the filing fee paid by the judgment creditor, and shall include a space to be signed by the judgment creditor acknowledging payment of the judgment by the judgment debtor. The judgment creditor shall mail or deliver a signed copy of the acknowledgment to the judgment debtor once the judgment is satisfied.

(e) The department shall terminate the suspension, or the suspension proceedings, upon the occurrence of any of the following:

(1) Receipt of proof that the judgment has been satisfied, either (A) by a copy of the notice required by this section signed by the judgment creditor acknowledging satisfaction of the judgment, or (B) by a declaration of the judgment debtor stating that the judgment has been satisfied.

(2) Receipt of proof that the judgment debtor is complying with a court-ordered payment schedule.

(3) Proof that the judgment debtor had insurance covering the accident sufficient to satisfy the judgment.

(4) A deposit with the department of the amount of the unsatisfied judgment, if the judgment debtor presents proof, satisfactory to the department, of inability to locate the judgment creditor.

(5) At the end of 90 days.

(f) When the suspension has been terminated under subdivision (e), the action is final and may not be reinstituted. Whenever the suspension is terminated, Section 14904 of the Vehicle Code shall apply. Money deposited with the department under this section shall be handled in the same manner as money deposited under subdivision (d) of Section 16377 of the Vehicle Code.

(g) No public agency is liable for any injury caused by the suspension, termination of suspension, or the failure to suspend any

person's privilege to operate a motor vehicle as authorized by this section.

SEC. 34. Section 116.910 of the Code of Civil Procedure is amended to read:

116.910. (a) Except as provided in this chapter (including, but not limited to, Section 116.230), no fee or charge shall be collected by any officer for any service provided under this chapter.

(b) All fees collected under this chapter shall be deposited with the treasurer of the city and county or county in whose jurisdiction the court is located.

(c) Six dollars ($6) of each eight dollar ($8) fee and fourteen dollars ($14) of each sixteen dollar ($16) fee charged and collected under subdivision (a) of Section 116.230 shall be deposited by each county in a special account. Of the money deposited in this account:

(1) In counties with a population of less than 4,000,000, a minimum of 50 percent shall be used to fund the small claims advisor service described in Section 116.940. The remainder of these funds shall be used for court and court-related programs. Records of these moneys shall be available for inspection by the public on request.

(2) In counties with a population of at least 4,000,000, not less than five hundred thousand dollars ($500,000) shall be used to fund the small claims advisor service described in Section 116.940. That amount shall be increased each fiscal year by an amount equal to the percentage increase in revenues derived from small claims court filing fees over the prior fiscal year. The remainder of these funds shall be used for court and court-related programs. Records of these moneys shall be available for inspection by the public on request.

(d) This section and Section 116.940 shall not be applied in any manner that results in a reduction of the level of services, or the amount of funds allocated for providing the services described in Section 116.940, that are in existence in each county during the fiscal year 1989–90. Nothing in this section shall preclude the county from procuring other funding, including state court block grants, to comply with the requirements of Section 116.940.

SEC. 35. Section 116.920 of the Code of Civil Procedure is amended to read:

116.920. (a) The Judicial Council shall provide by rule for the practice and procedure and for the forms and their use in small claims actions. The rules and forms so adopted shall be consistent with this chapter.

(b) The Judicial Council, in consultation with the Department of Consumer Affairs, shall adopt rules to ensure that litigants receive adequate notice of the availability of assistance from small claims advisors, to prescribe other qualifications and the conduct of advisors, to prescribe training standards for advisors and for temporary judges hearing small claims matters, to prescribe, where appropriate, uniform rules and procedures regarding small claims actions and judgments, and to address other matters that are deemed necessary and appropriate.

CHAPTER 916

An act to amend Section 1714.10 of the Civil Code, relating to attorneys.

[Approved by Governor October 13, 1991 Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 1714.10 of the Civil Code is amended to read:

1714.10. (a) No cause of action against an attorney for a civil conspiracy with his or her client arising from any attempt to contest or compromise a claim or dispute, and which is based upon the attorney's representation of the client, shall be included in a complaint or other pleading unless the court enters an order allowing the pleading that includes the claim for civil conspiracy to be filed after the court determines that the party seeking to file the pleading has established that there is a reasonable probability that the party will prevail in the action. The court may allow the filing of a pleading claiming liability based upon such a civil conspiracy following the filing of a verified petition therefor accompanied by the proposed pleading and supporting affidavits stating the facts upon which the liability is based. The court shall order service of the petition upon the party against whom the action is proposed to be filed and permit that party to submit opposing affidavits prior to making its determination. The filing of the petition, proposed pleading, and accompanying affidavits shall toll the running of any applicable statute of limitations until the final determination of the matter, which ruling, if favorable to the petitioning party, shall permit the proposed pleading to be filed.

(b) Failure to obtain a court order where required by subdivision (a) shall be a defense to any action for civil conspiracy filed in violation thereof. The defense shall be raised by the party charged with civil conspiracy upon that party's first appearance by demurrer, motion to strike, or such other motion or application as may be appropriate. Failure to timely raise the defense shall constitute a waiver thereof.

(c) section shall not apply to a cause of action against an attorney for a civil conspiracy with his or her client, where (1) the attorney has an independent legal duty to the plaintiff, or (2) the attorney's acts go beyond the performance of a professional duty to serve the client and involve a conspiracy to violate a legal duty in furtherance of the attorney's financial gain.

CHAPTER 917

An act to amend Sections 3521, 3521.1, and 3522 of, and to add Section 3521.5 to, the Business and Professions Code, relating to physician assistants, and making an appropriation therefor.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 3521 of the Business and Professions Code is amended to read:

3521. The fees to be paid for approval to supervise physician assistants are to be set by the committee as follows:

(a) An application fee not to exceed fifty dollars ($50) shall be charged to each physician and surgeon applicant.

(b) An approval fee not to exceed two hundred fifty dollars ($250) shall be charged to each physician and surgeon upon approval of an application to supervise physician assistants.

(c) A biennial renewal fee not to exceed three hundred dollars ($300) shall be paid for the renewal of an approval.

(d) The delinquency fee is twenty-five dollars ($25).

(e) The duplicate approval fee is ten dollars ($10).

(f) The fee for a letter of endorsement, letter of good standing, or letter of verification of approval shall be ten dollars ($10).

SEC. 2. Section 3521.1 of the Business and Professions Code is amended to read:

3521.1. The fees to be paid by physician assistants are to be set by the committee as follows:

(a) An application fee not to exceed twenty-five dollars ($25) shall be charged to each physician assistant applicant.

(b) An initial license fee not to exceed two hundred fifty dollars ($250) shall be charged to each physician assistant to whom a license is issued.

(c) A biennial license renewal fee not to exceed three hundred dollars ($300).

(d) The delinquency fee is twenty-five dollars ($25).

(e) The duplicate license fee is ten dollars ($10).

(f) The fee for a letter of endorsement, letter of good standing, or letter of verification of licensure shall be ten dollars ($10).

SEC. 3. Section 3521.5 is added to the Business and Professions Code, to read:

3521.5. The committee shall report to the appropriate policy and fiscal committees of each house of the Legislature whenever the board approves a fee increase pursuant to Sections 3521 and 3521.1. The committee shall specify the reasons for each increase in the report. Reports prepared pursuant to this section shall identify the percentage of funds derived from an increase in fees pursuant to

Senate Bill 1077 of the 1990–91 Regular Session that will be used for investigational and enforcement activities by the board and committee.

SEC. 4. Section 3522 of the Business and Professions Code is amended to read:

3522. An approval to supervise physician assistants shall expire at 12 midnight on the last day of the birth month of the physician and surgeon during the second year of a two-year term if not renewed.

The board shall establish a cyclical renewal program, including, but not limited to, the establishment of a system of staggered expiration dates for approvals and a pro rata formula for the payment of renewal fees by physician and surgeon supervisors.

To renew an unexpired approval, the approved supervising physician and surgeon, on or before the date of expiration, shall apply for renewal on a form prescribed by the board and pay the prescribed renewal fee.

CHAPTER 918

An act to amend Section 5903 of, and to add Section 5903.5 to, the Welfare and Institutions Code, relating to mental health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 5903 of the Welfare and Institutions Code is amended to read:

5903. (a) For the purposes of this section, the following definitions shall apply:

(1) "Client" means an individual who is all of the following:

(A) Mentally disabled.

(B) Medi-Cal eligible.

(C) Under the age of 65 years.

(D) Certified for placement in an institution for mental disease by a county.

(E) Eligible for Supplemental Security Income/State Supplementary Program for the Aged, Blind, and Disabled (SSI/SSP) benefits.

(2) "Client's payee" means an authorized representative who may receive revenue resources, including SSI/SSP benefits, on behalf of a client.

(3) "SSI/SSP benefits" means revenue resources paid to an eligible client, or the client's payee, by the federal Social Security Administration pursuant to Subchapter 16 (commencing with Section 1381) of Chapter 7 of Title 42 of the United States Code, and

Chapter 3 (commencing with Section 12000) of Part 3 of Division 9.

(b) (1) Between August 1, 1991, and June 30, 1992, institution for mental disease providers shall make reasonable efforts to collect SSI/SSP benefits from a client or a client's payee. The provider shall invoice the client or the client's payee for the SSI/SSP benefits, minus the personal and incidental allowance amount as established by the Social Security Administration, and remit all SSI/SSP funds collected to the department pursuant to procedures established by the department.

(2) Commencing July 1, 1992, and to the extent permitted by federal law, institution for mental disease providers may collect SSI/SSP benefits from a client or a client's payee. The amount to be invoiced shall be the amount of the client's SSI/SSP benefits, minus the personal and incidental allowance amount as established by the Social Security Administration. The administrative mechanism for collection of SSI/SSP benefits, including designation of the party responsible for collection, shall be determined by negotiation between the counties and the providers.

(c) In collecting SSI/SSP benefits from the client or the client's payee, the provider shall not be deemed to be the authorized representative, as defined in Section 72015 of Title 22 of the California Code of Regulations, for purposes of handling the client's moneys or valuables.

(d) Providers shall make all reasonable efforts, as specified in procedures developed by the department in consultation with providers, to collect SSI/SSP benefits from the client or the client's payee. Providers shall establish an accounting procedure, approved by the department, for the actual collection and remittance of these funds.

(e) Providers shall prorate the client's SSI/SSP benefits by the number of days spent in the facility.

(f) After June 30, 1992, and not later than January 1, 1993, the department shall make data available to the Legislature, upon request, regarding the SSI/SSP collections made by institution for mental disease providers pursuant to this section.

SEC. 2. Section 5903.5 is added to the Welfare and Institutions Code, to read:

5903.5. Notwithstanding any other provision of law, the department may liquidate accounts receivable from individual clients or payees of clients from institution for mental disease funds appropriated by the Legislature, when they have been determined by the department to be uncollectible, including accounts receivable in existence prior to the effective date of this section. Liquidation shall occur no sooner than 12 months after the original date of the accounts receivable debt.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to avoid undue delay in the provision of treatment for mentally disabled clients, maximize the efficient collection of SSI/SSP benefits as reimbursement for treatment, and ensure continuity and adequacy of treatment for these clients, it is necessary that this act take effect immediately.

CHAPTER 919

An act to amend Sections 17875 and 94125 of the Education Code, to amend Sections 8857, 13889, 15436, and 91553 of the Government Code, to amend Sections 25392.4, 44519, and 50185 of the Health and Safety Code, and to amend Sections 26008 and 32054 of the Public Resources Code, relating to state boards and commissions.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 17875 of the Education Code is amended to read:

17875. (a) Upon the first appointment of its members, and thereafter on or after March 31 of each year, the authority shall elect from its members a vice chairperson and a secretary-treasurer, who shall hold office until the following March 31, and shall continue to serve until their successors have been elected.

(b) On behalf of the authority, the chairperson shall appoint an executive director, who shall not be a member of the authority, and who shall serve at the pleasure of the authority. The executive director shall receive the compensation fixed for that purpose by the authority.

The authority may delegate to the executive director the power to sign contracts on behalf of the authority.

SEC. 2. Section 94125 of the Education Code is amended to read:

94125. The authority may employ an executive director and such other persons as are necessary to enable it properly to perform the duties imposed upon it by this chapter. The authority may delegate to the executive director the power to sign contracts on behalf of the authority.

SEC. 3. Section 8857 of the Government Code is amended to read:

8857. The chairman of the commission, on its behalf, may employ an executive director and other persons necessary to perform the duties imposed upon it by this chapter. The executive director shall serve at the pleasure of the commission and shall receive compensation as fixed by the commission. The commission may delegate to the executive director the authority to sign contracts on behalf of the commission.

SEC. 5. Section 13889 of the Government Code is amended to read:

13889. In carrying out its duties and responsibilities, the commission shall have the following powers:

(a) To examine any document, report, or data, including computer programs and data files, held by any state agency, as defined by Section 11000, which agencies are hereby required to cooperate with the commission and its employees in any such examination.

(b) To meet at such times and places as it may deem proper.

(c) As a body, or, on the authorization of the commission, as a committee composed of two or more members, at least one of which shall be a legislative member, to hold hearings at such times and places as it may deem proper.

(d) Upon a vote of the commission, to issue subpoenas to compel the attendance of witnesses and the production of books, records, papers, accounts, reports, and documents.

(e) To administer oaths.

(f) To employ an executive director, who shall be exempt from civil service, and such staff as may be necessary. The commission may delegate to the executive director the authority to sign contracts on behalf of the commission.

(g) To contract with such other agencies or individuals, public or private, as it deems necessary, to provide or prepare such services, facilities, studies, and reports to the commission as will assist it in carrying out its duties and responsibilities.

(h) To authorize its agents and employees to absent themselves from the state where necessary for the performance of their duties.

(i) To do any and all other things necessary or convenient to enable it fully and adequately to perform its duties and to exercise the powers expressly granted to it.

SEC. 6. Section 15436 of the Government Code is amended to read:

15436. Five members of the authority shall constitute a quorum. The affirmative vote of a majority of a quorum shall be necessary for any action taken by the authority. A vacancy in the membership of the authority shall not impair the right of a quorum to exercise all the rights and perform all the duties of the authority. Each meeting of the authority shall be open to the public and shall be held in accordance with the provisions of Article 11 (commencing with Section 11120) of Chapter 1. Resolutions of the authority need not be published or posted. The authority may delegate by resolution to one or more of its members or its executive director such powers and duties as it may deem proper. The authority may delegate to the executive director the power to sign contracts on behalf of the authority.

SEC. 7. Section 91553 of the Government Code is amended to read:

91553. The chairperson of the commission on its behalf shall

appoint an executive director who shall serve at the pleasure of the commission and shall receive an annual salary which shall be established by the chairperson of the commission. The commission may delegate to the executive director the authority to sign contracts on behalf of the commission. The commission may employ such additional staff as it deems necessary and appropriate to carry out the provisions of this title. The commission shall charge fees commensurate with its direct expenses and those of the office of the State Treasurer in performing its duties pursuant to this title. Amounts received under this section shall be deposited in the Industrial Development Fund which is hereby created and shall be available, when appropriated, for the expenses of the commission. Until such time as fees are received by the commission and appropriated pursuant to this section for the expenses of the commission, the commission may borrow such moneys as may be required for the purpose of meeting necessary expenses of initial organization and operation of the commission.

SEC. 8. Section 25392.4 of the Health and Safety Code is amended to read:

25392.4. (a) The authority shall administer this article and may exercise all powers reasonably necessary to carry out the powers and responsibilities expressly granted or imposed upon it pursuant to this article.

(b) The authority shall maintain an office in the City of Sacramento.

(c) The authority may employ an executive director and any other persons necessary for the authority to properly perform the duties imposed upon the authority pursuant to this article. The executive director shall serve at the pleasure of the authority and shall receive the compensation which is fixed by the authority. The authority may delegate to the executive director the power to sign contracts on behalf of the authority.

(d) The authority may adopt bylaws to carry out this article and may call upon any board or department of the state government for aid and assistance in the preparation of plans and specifications and in the development of technology necessary to effectively promote the removal of, and remedial actions to, releases of hazardous substances.

SEC. 9. Section 44519 of the Health and Safety Code is amended to read:

44519. The authority may employ an executive director and such other persons as are necessary to enable it properly to perform the duties imposed upon it by this division. The authority may delegate to the executive director the power to sign contracts on behalf of the authority.

SEC. 10. Section 50185 of the Health and Safety Code is amended to read:

50185. The Mortgage Bond Allocation Committee is hereby renamed the Mortgage Bond and Tax Credit Allocation Committee.

The committee is composed of the Governor, or in the Governor's absence, the Director of Finance, the Controller, and the Treasurer. The Director of Housing and Community Development, the Executive Director of the California Housing Finance Agency, and two representatives of local government, one representative of the counties appointed by the Senate Rules Committee, and one representative of the cities appointed by the Speaker of the Assembly shall serve as ex officio, nonvoting members. The Treasurer shall be the chairperson of the committee. The members of the committee shall serve without compensation. A majority of voting members shall be empowered to act for the committee. The committee may employ an executive director to carry out its duties under this chapter. The committee may delegate to the executive director the authority to sign contracts on behalf of the committee.

SEC. 11. Section 26008 of the Public Resources Code is amended to read:

26008. The authority may employ an executive director and such other persons as are necessary to enable it properly to perform the duties imposed upon it by this division. The executive director shall serve at the pleasure of the authority and shall receive such compensation as shall be fixed by the authority. The authority may delegate to the executive director the power to sign contracts on behalf of the authority.

SEC. 12. Section 32054 of the Public Resources Code is amended to read:

32054. The chairman shall appoint an executive director who shall not be a member of the authority and who shall serve at the pleasure of the authority and shall employ the staff of the conservancy and other necessary persons to enable the authority to properly perform the duties imposed upon it by this division. The executive director shall receive compensation as fixed by the authority. The authority may delegate to the executive director the power to sign contracts on behalf of the authority.

CHAPTER 920

An act to amend Section 1795.12 of the Health and Safety Code, relating to health records.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 1795.12 of the Health and Safety Code is amended to read:

1795.12. (a) Notwithstanding Section 5328 of the Welfare and Institutions Code, and except as provided in Sections 1795.14 and

1795.16, any adult patient of a health care provider, any minor patient authorized by law to consent to medical treatment, and any patient representative shall be entitled to inspect patient records upon presenting to the health care provider a written request for those records and upon payment of reasonable clerical costs incurred in locating and making the records available. However, a patient who is a minor shall be entitled to inspect patient records pertaining only to health care of a type for which the minor is lawfully authorized to consent. A health care provider shall permit this inspection during business hours within five working days after receipt of the written request. The inspection shall be conducted by the patient or patient's representative requesting the inspection, who may be accompanied by one other person of his or her choosing.

(b) Additionally, any patient or patient's representative shall be entitled to copies of all or any portion of the patient records which he or she has a right to inspect, upon presenting a written request to the health care provider specifying the records to be copied, together with a fee to defray the cost of copying, which shall not exceed twenty-five cents ($0.25) per page or fifty cents ($0.50) per page for records that are copied from microfilm and any additional reasonable clerical costs incurred in making the records available. The health care provider shall ensure that the copies are transmitted within 15 days after receiving the written request.

(c) Copies of X-rays or tracings derived from electrocardiography, electroencephalography, or electromyography need not be provided to the patient or patient's representative under this section, if the original X-rays or tracings are transmitted to another health care provider upon written request of the patient or patient's representative and within 15 days after receipt of the request. The request shall specify the name and address of the health care provider to whom the records are to be delivered. All reasonable costs, not exceeding actual costs, incurred by a health care provider in providing copies pursuant to this subdivision may be charged to the patient or representative requesting the copies.

(d) This section shall not be construed to preclude a health care provider from requiring reasonable verification of identity prior to permitting inspection or copying of patient records, provided this requirement is not used oppressively or discriminatorily to frustrate or delay compliance with this section. Nothing in this division shall be deemed to supersede any rights which a patient or representative might otherwise have or exercise under Section 1158 of the Evidence Code or any other provision of law. Nothing in this division shall require a health care provider to retain records longer than required by applicable statutes or administrative regulations.

(e) This division shall not be construed to render a health care provider liable for the quality of his or her records or the copies provided in excess of existing law and regulations with respect to the quality of medical records. A health care provider shall not be liable to the patient or any other person for any consequences which result

from disclosure of patient records as required by this division. A health care provider shall not discriminate against classes or categories of providers in the transmittal of X-rays or other patient records, or copies of these X-rays or records, to other providers as authorized by this section.

Every health care provider shall adopt policies and establish procedures for the uniform transmittal of X-rays and other patient records that effectively prevent the discrimination described in this subdivision. A health care provider may establish reasonable conditions, including a reasonable deposit fee, to ensure the return of original X-rays transmitted to another health care provider, provided the conditions do not discriminate on the basis of, or in a manner related to, the license of the provider to which the X-rays are transmitted.

(f) Any health care provider described in paragraphs (4) to (10), inclusive, of subdivision (a) of Section 1795.10 who willfully violates this division is guilty of unprofessional conduct. Any health care provider described in paragraphs (1) to (3), inclusive, of subdivision (a) of Section 1795.10 that willfully violates this division is guilty of an infraction punishable by a fine of not more than one hundred dollars ($100). The state agency, board, or commission which issued the health care provider's professional or institutional license shall consider a violation as grounds for disciplinary action with respect to the licensure, including suspension or revocation of the license or certificate.

(g) This section shall be construed as prohibiting a health care provider from withholding patient records or summaries of patient records because of an unpaid bill for health care services. Any health care provider who willfully withholds patient records or summaries of patient records because of an unpaid bill for health care services shall be subject to the sanctions specified in subdivision (f).

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 921

An act to amend Section 51350 of the Health and Safety Code, relating to housing bonds, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 51350 of the Health and Safety Code is amended to read:

51350. (a) The agency may from time to time, after action of the Housing Bond Credit Committee as provided in Section 51360, issue its bonds in the principal amount which the agency determines necessary to provide sufficient funds for financing housing developments and other residential structures and for the payment of interest on bonds of the agency, establishment of reserves to secure the bonds, and other expenditures of the agency incident to, and necessary or convenient to, issuance of the bonds.

(b) Sale of the bonds of the agency shall be coordinated by the Treasurer. To obtain a date for the sale of bonds, the agency shall inform the Treasurer of the amount of the proposed issue. Upon that notification, the Treasurer shall provide three 10-day periods, within the 90 days next following, when the bonds can be sold. The agency may choose any date during the suggested periods or any other date to which the agency and the Treasurer have mutually agreed. The Treasurer shall sell the bonds on the date chosen according to terms approved by the agency.

The Housing Bond Credit Committee shall exercise its powers with due regard for the right of the holders of bonds of the agency at any time outstanding, and nothing in, or done pursuant to, this section shall in any way limit, restrict, or alter the obligation or powers of the agency or any member, officer, or representative of the agency or the Treasurer to carry out and perform in every detail each and every convenant, agreement, or contract at any time made or entered into on behalf of the agency with respect to its bonds or its benefits, or the security of the holders of the bonds.

(c) Except as provided in subdivisions (d), (e), (f), (g), and (h), the aggregate principal amount of bonds which may be outstanding at any time pursuant to this part shall not exceed seven hundred fifty million dollars ($750,000,000), exclusive of the principal indebtedness of bonds issued to refund or renew previously issued bonds of the agency, to the extent of the outstanding principal indebtedness of the previously issued bonds and any redemption premium thereon and any interest accrued or to accrue to the date of redemption of the bonds, during the period in which both the previously issued bonds and the refunding or renewal bonds are outstanding.

(d) Effective January 1, 1980, the aggregate principal amount of bonds which may be outstanding at any time pursuant to this part shall be increased by seven hundred fifty million dollars ($750,000,000), exclusive of (1) bonds previously authorized pursuant to subdivision (c), and (2) the principal indebtedness of bonds issued to refund or renew bonds of the agency previously issued under the authority of this subdivision, but only to the extent of the outstanding principal indebtedness of the previously issued bonds and any redemption premium thereon and any interest accrued or to accrue to the date of redemption of the bonds, during the period in which both the previously issued bonds and such refunding or renewal bonds are outstanding.

(e) Effective January 1, 1983, the aggregate principal amount of bonds which may be outstanding at any time pursuant to this part shall be additionally increased by three hundred fifty million dollars ($350,000,000) exclusive of (1) bonds previously authorized pursuant to subdivision (c) or (d), and (2) the principal indebtedness of bonds issued to refund or renew bonds of the agency previously issued under the authority of this subdivision, but only to the extent of the outstanding principal indebtedness of the previously issued bonds and any redemption premium thereon and any interest accrued or to accrue to the date of the redemption of the bonds, during the period in which both the previously issued bonds and such refunding or renewal bonds are outstanding.

(f) Effective January 1, 1984, the aggregate principal amount of bonds which may be outstanding at any time pursuant to this part shall be additionally increased by five hundred million dollars ($500,000,000) exclusive of (1) bonds previously authorized pursuant to subdivision (c), (d), or (e), and (2) the principal indebtedness of bonds issued to refund or renew bonds of the agency previously issued under the authority of this subdivision, but only to the extent of the outstanding principal indebtedness of the previously issued bonds and any redemption premium thereon and any interest accrued or to accrue to the date of the redemption of the bonds, during the period in which both the previously issued bonds and such refunding or renewal bonds are outstanding.

(g) On the effective date of the amendments to this section enacted by the Statutes of 1985, the aggregate principal amount of bonds which may be outstanding at any time pursuant to this part shall be additionally increased by six hundred million dollars ($600,000,000), exclusive of (1) bonds previously authorized pursuant to subdivision (c), (d), (e), or (f), and (2) the principal indebtedness of bonds issued to refund or renew bonds of the agency previously issued under the authority of this subdivision, but only to the extent of the outstanding principal indebtedness of the previously issued bonds and any redemption premium thereon and any interest accrued or to accrue to the date of the redemption of the bonds, during the period in which both the previously issued bonds and such refunding or renewal bonds are outstanding.

(h) On the effective date of the amendments to this section enacted by the Statutes of 1985, the aggregate principal amount of bonds which may be outstanding at any time pursuant to this part shall be additionally increased by six hundred million dollars ($600,000,000), exclusive of (1) bonds previously authorized pursuant to subdivision (c), (d), (e), (f), or (g), and (2) the principal indebtedness of bonds issued to refund or renew bonds of the agency previously issued under the authority of this subdivision, but only to the extent of the outstanding principal indebtedness of the previously issued bonds and any redemption premium thereon and any interest accrued or to accrue to the date of the redemption of the bonds, during the period in which both the previously issued bonds and such refunding or renewal bonds are outstanding.

(i) Effective September 4, 1990, the aggregate principal amount of bonds which may be outstanding at any one time pursuant to this part shall be additionally increased by nine hundred million dollars ($900,000,000), exclusive, of: (1) bonds previously authorized pursuant to subdivision (c), (d), (e), (f), (g), or (h), and (2) the principal indebtedness of bonds issued to refund or renew bonds of the agency previously issued under the authority of this subdivision, but only to the extent of the outstanding principal indebtedness of the previously issued bonds and any redemption premium thereon and any interest accrued or to accrue to the date of the redemption of the bonds, during the period in which both the previously issued bonds and the refunding or renewal bonds are outstanding.

(j) On the effective date of the amendments to this section which add this subdivision, the aggregate principal amount of bonds which may be outstanding at any one time pursuant to this part shall be additionally increased by nine hundred million dollars ($900,000,000), exclusive of: (1) bonds previously authorized pursuant to subdivision (c), (d), (e), (f), (g), (h), or (i), and (2) the principal indebtedness of bonds issued to refund or renew bonds of the agency previously issued under the authority of this subdivision, but only to the extent of the outstanding principal indebtedness of the previously issued bonds and any redemption premium thereon and any interest accrued or to accrue to the date of the redemption of the bonds, during the period in which both the previously issued bonds and the refunding or renewal bonds are outstanding.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to permit the California Housing Finance Agency to continue to finance certain vital housing programs, it is necessary that this act take immediate effect.

CHAPTER 922

An act to amend Sections 652 and 668 of, to repeal and add Section 88 to, the Harbors and Navigation Code, and to amend Sections 9875 and 40000.8 of the Vehicle Code, relating to vessels.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 88 of the Harbors and Navigation Code is repealed.

SEC. 2. Section 88 is added to the Harbors and Navigation Code, to read:

88. A small craft harbor or boating facility funded pursuant to Section 70, 70.2, 70.8, 71.4, 72.5, or 76.3 is not liable for any damages which occur on a vessel using those facilities or pursuant to operation of the vessel, other than on the facilities of the harbor or boating facility. This section does not provide immunity from liability for a small craft harbor or boating facility for its negligent acts.

SEC. 3. Section 652 of the Harbors and Navigation Code is amended to read:

652. (a) The department may issue regulations:

(1) Establishing minimum safety standards for boats and associated equipment.

(2) Requiring the installation, carrying, or using of associated equipment.

(3) Prohibiting the installation, carrying, or using of associated equipment which does not conform with safety standards established pursuant to this chapter.

(b) The regulations shall conform with the federal navigation laws or with the navigation rules promulgated by the United States Coast Guard, or any successor thereto.

(c) No person or public agency shall use or give permission for the use of a vessel which does not carry the equipment or meet the standards established pursuant to this chapter.

(d) A peace officer or harbor police officer authorized to enforce this chapter may order the termination of the operation of a vessel which is found to be unsafe for operation pursuant to Section 6550.5 of Title 14 of the California Code of Regulations. A violation of an order under this subdivision is a misdemeanor.

SEC. 4. Section 668 of the Harbors and Navigation Code, as added by Section 12 of Chapter 1114 of the Statutes of 1989, is amended to read:

668. (a) Any person who violates subdivision (c) of Section 652, Section 654, 654.05, 654.06, 659, 673, 674, or 754, or any rules or regulations adopted pursuant thereto, is guilty of an infraction, punishable by a fine of not more than two hundred fifty dollars

($250).

(b) (1) Any person who violates Section 655.2 or 655.3, or any regulation adopted pursuant thereto, is guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars ($100) or imprisonment in the county jail for not more than five days, or by both that fine and imprisonment, for each violation.

(2) Any person who violates subdivision (a) or (b) of Section 658 is guilty of a misdemeanor and shall be punished by a fine of not more than two hundred dollars ($200) for each violation.

(3) Any person who violates subdivision (d) of Section 652, Section 652.5, subdivision (a) of Section 655, Section 655.05, 656, or 656.1, subdivision (d) or (e) of Section 658, Section 663.6 or 665, or any rules and regulations adopted pursuant to subdivision (b) or (c) of Section 660, is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars ($1,000) or imprisonment in the county jail for not more than six months, or by both that fine and imprisonment, for each violation.

(c) Any person convicted of a first violation of subdivision (b), (c), (d), or (e) of Section 655, or of a violation of Section 655.4, shall be punished by a fine of not more than one thousand dollars ($1,000) or imprisonment in the county jail for not more than six months, or by both that fine and imprisonment.

(d) Any person convicted of a second or subsequent violation of subdivision (b), (c), (d), or (e) of Section 655 within seven years of the first conviction of any of those subdivisions or subdivision (f) of Section 655, or any person convicted of a violation of subdivision (b), (c), (d), or (e) of Section 655 within seven years of a separate conviction of Section 191.5 or subdivision (c) of Section 192.5 of the Penal Code, when the separate conviction resulted from the operation of a vessel, or a separate conviction of Section 23152 or 23153 of the Vehicle Code or of Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, when the separate conviction resulted from the operation of a motor vehicle, shall be punished by a fine of not more than one thousand dollars ($1,000) or imprisonment in the county jail for not more than one year, or by both that fine and imprisonment.

(e) Any person convicted of a violation of subdivision (f) of Section 655 shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days or more than one year, and by a fine of not less than two hundred fifty dollars ($250) or more than five thousand dollars ($5,000).

(f) If any person is convicted of a violation of subdivision (f) of Section 655 within seven years of a separate conviction of a violation of subdivision (b), (c), (d), or (e) of Section 655 and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for not less than five days or more than one year and pay a fine of not less than two hundred fifty dollars ($250) or more than five thousand dollars ($5,000). If any person is convicted of a violation of subdivision (f) of Section 655

within seven years of a separate conviction of a violation of subdivision (f) of Section 655, of Section 191.5 or subdivision (c) of Section 192.5 of the Penal Code, when the prior conviction resulted from the operation of a vessel, or Section 23152 or 23153 of the Vehicle Code or Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, when the separate conviction resulted from the operation of a motor vehicle, and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for not less than 90 days or more than one year, and pay a fine of not less than two hundred fifty dollars ($250) or more than five thousand dollars ($5,000).

(g) The court shall not absolve a person who is convicted of a violation of subdivision (f) of Section 655 within seven years of a separate conviction of a violation of subdivision (b), (c), (d), (e), or (f) of Section 655, of Section 191.5 or subdivision (c) of Section 192.5 of the Penal Code, when the separate conviction resulted from the operation of a vessel, or Section 23152 or 23153 of the Vehicle Code or Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, when the separate conviction resulted from the operation of a motor vehicle, from the minimum time in confinement provided in this section and a fine of at least two hundred fifty dollars ($250), except as provided in subdivision (h).

(h) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a separate conviction of an offense under subdivision (b), (c), (d), (e), or (f) of Section 655 or of Section 191.5 or subdivision (c) of Section 192.5 of the Penal Code, when the prior conviction resulted from the operation of a vessel, or Section 23152 or 23153 of the Vehicle Code or Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, when the separate conviction resulted from the operation of a motor vehicle, for purposes of sentencing in order to avoid imposing, as part of the sentence or as a term of probation, the minimum time in confinement and the minimum fine, as provided in this section. When a separate conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for the striking order. On appeal by the people from an order striking a separate conviction, it shall be conclusively presumed that the order was made only for the reasons specified in the order, and the order shall be reversed if there is no substantial basis in the record for any of those reasons.

(i) Any person convicted of a violation of Section 656.2 or 656.3 shall be punished by a fine of not more than ten thousand dollars ($10,000) or imprisonment in the state prison or in the county jail for not more than one year, or by both that fine and imprisonment.

(j) Any person convicted of a violation of Section 658.5 shall be punished by a fine of not more than one hundred dollars ($100).

SEC. 5. Section 668 of the Harbors and Navigation Code, as added by Section 12 of Chapter 1114 of the Statutes of 1989, is amended to read:

668. (a) Any person who violates subdivision (c) of Section 652, Section 654, 654.05, 654.06, 659, 673, 674, or 754, or any rules or regulations adopted pursuant thereto, is guilty of an infraction, punishable by a fine of not more than two hundred fifty dollars ($250).

(b) (1) Any person who violates Section 655.2 or 655.3, or any regulation adopted pursuant thereto, is guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars ($100) or imprisonment in the county jail for not more than five days, or by both that fine and imprisonment, for each violation.

(2) Any person who violates subdivision (a) or (b) of Section 658 is guilty of a misdemeanor and shall be punished by a fine of not more than two hundred dollars ($200) for each violation.

(3) Any person who violates subdivision (d) of Section 652, Section 652.5, subdivision (a) of Section 655, Section 655.05, 656, or 656.1, subdivision (d) or (e) of Section 658, Section 663.6 or 665, or any rules and regulations adopted pursuant to subdivision (b) or (c) of Section 660, is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars ($1,000) or imprisonment in the county jail for not more than six months, or by both that fine and imprisonment, for each violation.

(c) Any person convicted of a first violation of subdivision (b), (c), (d), or (e) of Section 655, or of a violation of Section 655.4, shall be punished by a fine of not more than one thousand dollars ($1,000) or imprisonment in the county jail for not more than six months, or by both that fine and imprisonment. If probation is granted, the court may, as a condition of probation, require the person to participate in, and successfully complete, an alcohol or drug education, training, or treatment program, in addition to imposing any penalties required by this code. In order to enable all persons to participate in licensed programs, every person referred to a program licensed pursuant to Section 11836 of the Health and Safety Code shall pay that program's costs commensurate with that person's ability to pay as determined by Section 11837.4 of the Health and Safety Code.

(d) Any person convicted of a second or subsequent violation of subdivision (b), (c), (d), or (e) of Section 655 within seven years of the first conviction of any of those subdivisions or subdivision (f) of Section 655, or any person convicted of a violation of subdivision (b), (c), (d), or (e) of Section 655 within seven years of a separate conviction of Section 191.5 or subdivision (c) of Section 192.5 of the Penal Code, when the separate conviction resulted from the operation of a vessel, or a separate conviction of Section 23152 or 23153 of the Vehicle Code or of Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, when the separate conviction resulted from the operation of a motor vehicle, shall be punished by a fine of not more than one thousand dollars ($1,000) or imprisonment in the county jail for not more than one year, or by both that fine and imprisonment. If probation is granted, the court may, as a condition of probation, require the person to do either of

the following, if available in the county of the person's residence or employment:

(1) Participate, for at least 18 months subsequent to the underlying conviction and in a manner satisfactory to the court, in a program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code, as designated by the court. In order to enable all required persons to participate, each person shall pay the program costs commensurate with the persons ability to pay as determined pursuant to Section 11837.4 of the Health and Safety Code.

(2) Participate, for at least 30 months subsequent to the underlying conviction and in a manner satisfactory to the court, in a program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code. A person ordered to treatment pursuant to this paragraph shall apply to the court or to a board of review, as designated by the court, at the conclusion of the program to obtain the court's order of satisfaction. Only upon the granting of that order of satisfaction by the court may the program issue its certificate of successful completion. A failure to obtain an order of satisfaction at the conclusion of the program is a violation of probation. In order to enable all required persons to participate, each person shall pay the program costs commensurate with the person's ability to pay as determined pursuant to Section 11837.4 of the Health and Safety Code. No condition of probation required pursuant to this paragraph is a basis for reducing any other probation requirement.

(e) Any person convicted of a violation of subdivision (f) of Section 655 shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days or more than one year, and by a fine of not less than two hundred fifty dollars ($250) or more than five thousand dollars ($5,000). If probation is granted, the court may, as a condition of probation, require the person to participate in, and successfully complete, a program licensed pursuant to Chapter 9 (commencing with Section 11836 of Part 2 of Division 10.5 of the Health and Safety Code, if available in the person's county of residence or employment, as designated by the court. In order to enable all required persons to participate, each person shall pay the program costs commensurate with the person's ability to pay as determined pursuant to Section 11837.4 of the Health and Safety Code.

(f) (1) If any person is convicted of a violation of subdivision (f) of Section 655 within seven years of a separate conviction of a violation of subdivision (b), (c), (d), or (e) of Section 655 and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for not less than five days or more than one year and pay a fine of not less than two hundred fifty dollars ($250) or more than five thousand dollars ($5,000).

(2) If any person is convicted of a violation of subdivision (f) of

Section 655 within seven years of a separate conviction of a violation of subdivision (f) of Section 655, of Section 191.5 or subdivision (c) of Section 192.5 of the Penal Code, when the prior conviction resulted from the operation of a vessel, or Section 23152 or 23153 of the Vehicle Code or Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, when the separate conviction resulted from the operation of a motor vehicle, and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for not less than 90 days or more than one year, and pay a fine of not less than two hundred fifty dollars ($250) or more than five thousand dollars ($5,000), and the court may order, as a condition of probation, that the person participate in a manner satisfactory to the court, in a program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 Division 10.5 of the Health and Safety Code, if available in the county of the person's residence or employment. In order to enable all required persons to participate, each person shall pay the program costs commensurate with the person's ability to pay as determined pursuant to Section 11837.4 of the Health and Safety Code.

(g) The court shall not absolve a person who is convicted of a violation of subdivision (f) of Section 655 within seven years of a separate conviction of a violation of subdivision (b), (c), (d), (e), or (f) of Section 655, of Section 191.5 or subdivision (c) of Section 192.5 of the Penal Code, when the separate conviction resulted from the operation of a vessel, or Section 23152 or 23153 of the Vehicle Code or Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, when the separate conviction resulted from the operation of a motor vehicle, from the minimum time in confinement provided in this section and a fine of at least two hundred fifty dollars ($250), except as provided in subdivision (h).

(h) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a separate conviction of an offense under subdivision (b), (c), (d), (e), or (f) of Section 655 or of Section 191.5 or subdivision (c) of Section 192.5 of the Penal Code, when the prior conviction resulted from the operation of a vessel, or Section 23152 or 23153 of the Vehicle Code or Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, when the separate conviction resulted from the operation of a motor vehicle, for purposes of sentencing in order to avoid imposing, as part of the sentence or as a term of probation, the minimum time in confinement and the minimum fine, as provided in this section. When a separate conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for the striking order. On appeal by the people from an order striking a separate conviction, it shall be conclusively presumed that the order was made only for the reasons specified in the order, and the order shall be reversed if there is no substantial basis in the record for any of those reasons.

(i) Any person convicted of a violation of Section 656.2 or 656.3

shall be punished by a fine of not more than ten thousand dollars ($10,000) or imprisonment in the state prison or in the county jail for not to exceed more than one year, or by both that fine and imprisonment.

(j) Any person convicted of a violation of Section 658.5 shall be punished by a fine of not more than one hundred dollars ($100).

SEC. 6. Section 9875 of the Vehicle Code is amended to read:

9875. Except as provided in Section 40000.8, any person who violates any provision of this chapter or any rule or regulation of the department adopted pursuant to this chapter is guilty of an infraction, punishable under Section 42001.

SEC. 7. Section 40000.8 of the Vehicle Code is amended to read:

40000.8. A violation of any of the following provisions is a misdemeanor, and not an infraction:

Section 9872, relating to the registration of vessels.

Section 9872.1, relating to unidentified vessels.

SEC. 8. Section 4 of this bill incorporates amendments to Section 668 of the Harbors and Navigation Code proposed by both this bill and SB 515. It shall only become operative if, (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 668 of the Harbors and Navigation Code, and (3) this bill is enacted after SB 515, in which case Section 3 of this bill shall not become operative.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 923

An act to amend Section 668 of the Harbors and Navigation Code, as added by Section 12 of Chapter 1114 of the Statutes of 1989, and to amend Section 11837 of the Health and Safety Code, relating to vessel offenses.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 668 of the Harbors and Navigation Code, as added by Section 12 of Chapter 1114 of the Statutes of 1989, is

amended to read:

668. (a) Any person who violates Section 652, 654, 654.05, 654.06, 655.2, 655.3, 659, or 663.6, or any regulations adopted by the department pursuant thereto, is guilty of a misdemeanor and shall be punished by a fine of not to exceed one hundred dollars ($100) or imprisonment in the county jail for not to exceed five days, or both, for each violation.

(b) Any person who violates subdivision (a) or (b) of Section 658 is guilty of a misdemeanor and shall be punished by a fine of not to exceed two hundred dollars ($200) for each violation.

(c) Any person who violates Section 652.5, subdivision (a) of Section 655, Sections 655.05, 656, or 656.1, subdivision (d) or (e) of Section 658, or any rules and regulations adopted by the department pursuant to subdivision (b) or (c) of Section 660, is guilty of a misdemeanor and shall be punished by a fine of not to exceed one thousand dollars ($1,000) or imprisonment in the county jail for not to exceed six months, or both, for each violation.

(d) Any person convicted of a first violation of subdivision (b), (c), (d), or (e) of Section 655, or of a violation of Section 655.4, shall be punished by a fine of not to exceed one thousand dollars ($1,000) or imprisonment in the county jail for not to exceed six months, or both. If probation is granted, the court may, as a condition of probation, require the person to participate in, and successfully complete, an alcohol or drug education , training, or treatment program, in addition to imposing any penalties required by this code. In order to enable all persons to participate in licensed programs, every person referred to a program licensed pursuant to Section 11836 of the Health and Safety Code shall pay that program's costs commensurate with that person's ability to pay as determined by Section 11837.4 of the Health and Safety Code.

(e) Any person convicted of a second or subsequent violation of subdivision (b), (c), (d), or (e) of Section 655 within seven years of the first conviction of any of those subdivisions or subdivision (f) of Section 655, or any person convicted of a violation of subdivision (b), (c), (d), or (e) of Section 655 within seven years of a separate conviction of Section 191.5 or subdivision (c) of Section 192.5 of the Penal Code, when the separate conviction resulted from the operation of a vessel, or a separate conviction of Section 23152 or 23153 of the Vehicle Code or of Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, when the separate conviction resulted from the operation of a motor vehicle, shall be punished by a fine of not to exceed one thousand dollars ($1,000) or imprisonment in the county jail for not to exceed one year, or both. If probation is granted, the court may, as a condition of probation, require the person to do either of the following, if available in the county of the person's residence or employment:

(1) Participate, for at least 18 months subsequent to the underlying conviction and in a manner satisfactory to the court, in a program licensed pursuant to Chapter 9 (commencing with

Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code, as designated by the court. In order to enable all required persons to participate, each person shall pay the program costs commensurate with the person's ability to pay as determined pursuant to Section 11837.4 of the Health and Safety Code.

(2) Participate, for at least 30 months subsequent to the underlying conviction and in a manner satisfactory to the court, in a program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code. A person ordered to treatment pursuant to this paragraph shall apply to the court or to a board of review, as designated by the court, at the conclusion of the program to obtain the court's order of satisfaction. Only upon the granting of that order of satisfaction by the court may the program issue its certificate of successful completion. A failure to obtain an order of satisfaction at the conclusion of the program is a violation of probation. In order to enable all required persons to participate, each person shall pay the program costs commensurate with the person's ability to pay as determined pursuant to Section 11837.4 of the Health and Safety Code. No condition of probation required pursuant to this paragraph is a basis for reducing any other probation requirement.

(f) Any person convicted of a violation of subdivision (f) of Section 655 shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days or more than one year, and by a fine of not less than two hundred fifty dollars ($250) or more than five thousand dollars ($5,000). If probation is granted, the court may, as a condition of probation, require the person to participate in, and successfully complete, a program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code, if available in the person's county of residence or employment, as designated by the court. In order to enable all required persons to participate, each person shall pay the program costs commensurate with the person's ability to pay as determined pursuant to Section 11837.4 of the Health and Safety Code.

(g) (1) If any person is convicted of a violation of subdivision (f) of Section 655 within seven years of a separate conviction of a violation of subdivision (b), (c), (d), or (e) of Section 655 and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for not less than five days or more than one year and pay a fine of not less than two hundred fifty dollars ($250) or more than five thousand dollars ($5,000).

(2) If any person is convicted of a violation of subdivision (f) of Section 655 within seven years of a separate conviction of a violation of subdivision (f) of Section 655, of Section 191.5 or subdivision (c) of Section 192.5 of the Penal Code, when the prior conviction resulted from the operation of a vessel, or Section 23152 or 23153 of the Vehicle Code or Section 191.5 or paragraph (3) of subdivision (c)

of Section 192 of the Penal Code, when the separate conviction resulted from the operation of a motor vehicle, and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for not less than 90 days or more than one year, and pay a fine of not less than two hundred fifty dollars ($250) or more than five thousand dollars ($5,000), and the court may order, as a condition of probation, that the person participate in a manner satisfactory to the court, in a program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 Division 10.5 of the Health and Safety Code, if available in the county of the person's residence or employment. In order to enable all required persons to participate, each person shall pay the program costs commensurate with the person's ability to pay as determined pursuant to Section 11837.4 of the Health and Safety Code.

(h) The court shall not absolve a person who is convicted of a violation of subdivision (f) of Section 655 within seven years of a separate conviction of a violation of subdivision (b), (c), (d), (e), or (f) of Section 655, of Section 191.5 or subdivision (c) of Section 192.5 of the Penal Code, when the separate conviction resulted from the operation of a vessel, or Section 23152 or 23153 of the Vehicle Code or Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, when the separate conviction resulted from the operation of a motor vehicle, from the minimum time in confinement provided in this section and a fine of at least two hundred fifty dollars ($250), except as provided in subdivision (i).

(i) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a separate conviction of an offense under subdivision (b), (c), (d), (e), or (f) of Section 655 or of Section 191.5 or subdivision (c) of Section 192.5 of the Penal Code, when the prior conviction resulted from the operation of a vessel, or Section 23152 or 23153 of the Vehicle Code or Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, when the separate conviction resulted from the operation of a motor vehicle, for purposes of sentencing in order to avoid imposing, as part of the sentence or as a term of probation, the minimum time in confinement and the minimum fine, as provided in this section. When a separate conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for the striking order. On appeal by the people from an order striking a separate conviction, it shall be conclusively presumed that the order was made only for the reasons specified in the order, and the order shall be reversed if there is no substantial basis in the record for any of those reasons.

(j) Any person convicted of a violation of Section 656.2 or 656.3 shall be punished by a fine of not to exceed ten thousand dollars ($10,000) or imprisonment in the state prison or in the county jail for not to exceed one year, or both.

(k) Any person convicted of a violation of Section 658.5 shall be punished by a fine of not to exceed one hundred dollars ($100).

SEC. 2. Section 668 of the Harbors and Navigation Code, as added by Section 12 of Chapter 1114 of the Statutes of 1989, is amended to read:

668. (a) Any person who violates subdivision (c) of Section 652 , Section 654, 654.05, 654.06, 659, 673, 674, or 754, or any rules or regulations adopted pursuant thereto, is guilty of an infraction, punishable by a fine of not more than two hundred fifty dollars ($250).

(b) (1) Any person who violates Section 655.2 or 655.3, or any regulation adopted pursuant thereto, is guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars ($100) or imprisonment in the county jail for not more than five days, or by both that fine and imprisonment, for each violation.

(2) Any person who violates subdivision (a) or (b) of Section 658 is guilty of a misdemeanor and shall be punished by a fine of not more than two hundred dollars ($200) for each violation.

(3) Any person who violates subdivision (d) of Section 652, Section 652.5, subdivision (a) of Section 655, Section 655.05, 656, or 656.1, subdivision (d) or (e) of Section 658, Section 663.6 or 665, or any rules and regulations adopted pursuant to subdivision (b) or (c) of Section 660, is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars ($1,000) or imprisonment in the county jail for not more than six months, or by both that fine and imprisonment, for each violation.

(c) Any person convicted of a first violation of subdivision (b), (c), (d), or (e) of Section 655, or of a violation of Section 655.4, shall be punished by a fine of not more than one thousand dollars ($1,000) or imprisonment in the county jail for not more than six months, or by both that fine and imprisonment. If probation is granted, the court may, as a condition of probation, require the person to participate in, and successfully complete, an alcohol or drug education , training, or treatment program, in addition to imposing any penalties required by this code. In order to enable all persons to participate in licensed programs, every person referred to a program licensed pursuant to Section 11836 of the Health and Safety Code shall pay that program's costs commensurate with that person's ability to pay as determined by Section 11837.4 of the Health and Safety Code.

(d) Any person convicted of a second or subsequent violation of subdivision (b), (c), (d), or (e) of Section 655 within seven years of the first conviction of any of those subdivisions or subdivision (f) of Section 655, or any person convicted of a violation of subdivision (b), (c), (d), or (e) of Section 655 within seven years of a separate conviction of Section 191.5 or subdivision (c) of Section 192.5 of the Penal Code, when the separate conviction resulted from the operation of a vessel, or a separate conviction of Section 23152 or 23153 of the Vehicle Code or of Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, when the separate conviction resulted from the operation of a motor vehicle, shall be punished by a fine of not more than one thousand dollars ($1,000) or

imprisonment in the county jail for not more than one year, or by both that fine and imprisonment. If probation is granted, the court may, as a condition of probation, require the person to do either of the following, if available in the county of the person's residence or employment:

(1) Participate, for at least 18 months subsequent to the underlying conviction and in a manner satisfactory to the court, in a program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code, as designated by the court. In order to enable all required persons to participate, each person shall pay the program costs commensurate with the persons ability to pay as determined pursuant to Section 11837.4 of the Health and Safety Code.

(2) Participate, for at least 30 months subsequent to the underlying conviction and in a manner satisfactory to the court, in a program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code. A person ordered to treatment pursuant to this paragraph shall apply to the court or to a board of review, as designated by the court, at the conclusion of the program to obtain the court's order of satisfaction. Only upon the granting of that order of satisfaction by the court may the program issue its certificate of successful completion. A failure to obtain an order of satisfaction at the conclusion of the program is a violation of probation. In order to enable all required persons to participate, each person shall pay the program costs commensurate with the person's ability to pay as determined pursuant to Section 11837.4 of the Health and Safety Code. No condition of probation required pursuant to this paragraph is a basis for reducing any other probation requirement.

(e) Any person convicted of a violation of subdivision (f) of Section 655 shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days or more than one year, and by a fine of not less than two hundred fifty dollars ($250) or more than five thousand dollars ($5,000). If probation is granted, the court may, as a condition of probation, require the person to participate in, and successfully complete, a program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code, if available in the person's county of residence or employment, as designated by the court. In order to enable all required persons to participate, each person shall pay the program costs commensurate with the person's ability to pay as determined pursuant to Section 11837.4 of the Health and Safety Code.

(f) (1) If any person is convicted of a violation of subdivision (f) of Section 655 within seven years of a separate conviction of a violation of subdivision (b), (c), (d), or (e) of Section 655 and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for not less than five days or more than one year and pay a fine of not less than two

hundred fifty dollars ($250) or more than five thousand dollars ($5,000).

(2) If any person is convicted of a violation of subdivision (f) of Section 655 within seven years of a separate conviction of a violation of subdivision (f) of Section 655, of Section 191.5 or subdivision (c) of Section 192.5 of the Penal Code, when the prior conviction resulted from the operation of a vessel, or Section 23152 or 23153 of the Vehicle Code or Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, when the separate conviction resulted from the operation of a motor vehicle, and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for not less than 90 days or more than one year, and pay a fine of not less than two hundred fifty dollars ($250) or more than five thousand dollars ($5,000), and the court may order, as a condition of probation, that the person participate in a manner satisfactory to the court, in a program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code, if available in the county of the person's residence or employment. In order to enable all required persons to participate, each person shall pay the program costs commensurate with the person's ability to pay as determined pursuant to Section 11837.4 of the Health and Safety Code.

(g) The court shall not absolve a person who is convicted of a violation of subdivision (f) of Section 655 within seven years of a separate conviction of a violation of subdivision (b), (c), (d), (e), or (f) of Section 655, of Section 191. 5 or subdivision (c) of Section 192.5 of the Penal Code, when the separate conviction resulted from the operation of a vessel, or Section 23152 or 23153 of the Vehicle Code or Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, when the separate conviction resulted from the operation of a motor vehicle, from the minimum time in confinement provided in this section and a fine of at least two hundred fifty dollars ($250), except as provided in subdivision (h).

(h) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a separate conviction of an offense under subdivision (b), (c), (d), (e), or (f) of Section 655 or of Section 191.5 or subdivision (c) of Section 192.5 of the Penal Code, when the prior conviction resulted from the operation of a vessel, or Section 23152 or 23153 of the Vehicle Code or Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, when the separate conviction resulted from the operation of a motor vehicle, for purposes of sentencing in order to avoid imposing, as part of the sentence or as a term of probation, the minimum time in confinement and the minimum fine, as provided in this section. When a separate conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for the striking order. On appeal by the people from an order striking a separate conviction, it shall be conclusively presumed that the order was made only for the reasons specified in the order, and the order

shall be reversed if there is no substantial basis in the record for any of those reasons.

(i) Any person convicted of a violation of Section 656.2 or 656.3 shall be punished by a fine of not more than ten thousand dollars ($10,000) or imprisonment in the state prison or in the county jail for not more than one year, or by both that fine and imprisonment.

(j) Any person convicted of a violation of Section 658.5 shall be punished by a fine of not more than one hundred dollars ($100).

SEC. 3. Section 2 of this bill incorporates amendments to Section 668 of the Harbors and Navigation Code proposed by both this bill and AB 1201. It shall only become operative if, (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 668 of the Harbors and Navigation Code, and (3) this bill is enacted after AB 1201, in which case Section 1 of this bill shall not become operative.

SEC. 4. Section 11837 of the Health and Safety Code is amended to read:

11837. (a) Pursuant to the provisions of law relating to suspension of a person's privilege to operate a motor vehicle upon conviction for driving while under the influence of an alcoholic beverage or under the combined influence of an alcoholic beverage and any drug, as set forth in paragraph (3) or (4) of subdivision (a) of Section 13352 of the Vehicle Code, the Department of Motor Vehicles shall restrict the driving privilege pursuant to Section 13352.5 of the Vehicle Code, if the court has notified the department pursuant to Section 13352.5 of the Vehicle Code that the person convicted of that offense has consented to participate for at least 18 months in a program designed to offer alcohol services to problem drinkers that is licensed pursuant to this chapter.

(b) In determining whether to refer a person, who is ordered to participate in a program pursuant to Section 668 of the Harbors and Navigation Code, in a licensed alcohol or drug education and counseling services program pursuant to Section 23161 of the Vehicle Code, or, pursuant to Section 23166, 23171, 23176, 23181, 23186, or 23191 of the Vehicle Code, in a licensed 18-month or 30-month program, the court may consider any relevant information about the person made available pursuant to a presentence investigation, which is permitted but not required under Section 23205 of the Vehicle Code, or other screening procedure. That information shall not be furnished, however, by any person who also provides services in a privately operated, licensed program or who has any direct interest in a privately operated, licensed program. In addition, the court shall obtain from the Department of Motor Vehicles a copy of the person's driving record to determine whether the person is eligible to participate in a licensed 18-month or 30-month program pursuant to this chapter.

(c) The court may, as a condition of probation, refer a first offender to a licensed program pursuant to Section 23161 or 23181 of the Vehicle Code to attend all of the education, group counseling,

and interview sessions described in Sections 9834, 9836, and 9838 of Title 9 of the California Code of Regulations if ordered to participate in six, nine, or 12 months of program activities. Notwithstanding Section 13352.5 of the Vehicle Code, if a first offender is referred to a licensed program pursuant to Section 23161 or 23181 of the Vehicle Code, that person may participate in a program if convicted of another offense punishable under Section 23165 or 23185 of the Vehicle Code.

(d) The court may, subject to Sections 11837.2, 11837.3, and 11838.2 and as a condition of probation, refer a person to a licensed program, even though the person's privilege to operate a motor vehicle is restricted, suspended, or revoked. An 18-month program described in Section 23166 or 23186 of the Vehicle Code or a 30-month program described in Section 23171, 23176, or 23191 of the Vehicle Code may include treatment of family members and significant other persons related to the convicted person with the consent of those family members and others as described in subdivision (e) of Section 9838 of Title 9 of the California Administrative Code, if there is no increase in the costs of the program to the convicted person.

(e) As used in this chapter, except as provided in subdivision (b) for violations of Section 668 of the Harbors and Navigation Code, "program" means a program which has been recommended by the county board of supervisors to the department and possesses a valid license issued by the department.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 924

An act to add and repeal Chapter 5.6 (commencing with Section 51020) of Part 1 of Division 1 of Title 5 of the Government Code, relating to oil refineries.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Chapter 5.6 (commencing with Section 51020) is added to Part 1 of Division 1 of Title 5 of the Government Code, to read:

CHAPTER 5.6. CALIFORNIA OIL REFINERY AND CHEMICAL PLANT SAFETY PREPAREDNESS ACT OF 1991

51020. This chapter shall be known, and may be cited, as the California Oil Refinery and Chemical Plant Safety Preparedness Act of 1991.

51020.5. The Legislature finds and declares both of the following:

(a) Because of the potentially hazardous nature of the handling of large quantities of chemicals, and because of recent accidents involving chemical handling in other states, a greater effort is required to ensure that communities located near these facilities receive the best achievable protection which the local public fire service and other local public health and safety agencies, including, but not limited to, city and county health departments, can provide in the event of a catastrophic release of hazardous chemicals, of fire, or of explosion.

(b) Substantial legislative action has already been taken to prevent catastrophic releases of hazardous chemicals, fires, and explosions. These statutes include, but are not limited to, Chapter 6.95 (commencing with Section 25500) of Division 20 of the Health and Safety Code, pertaining to hazardous materials release response plans and inventory, risk management and prevention programs, and the California Refinery and Chemical Plant Worker Safety Act of 1990 contained in Part 7.5 (commencing with Section 7850) of Division 5 of the Labor Code. However, some steps may remain to be taken to eliminate duplication of, and resolve inconsistencies between, existing statutes and to determine where additional protection or prevention is needed.

51021. It is the intent of the Legislature, in enacting this chapter, to do both of the following:

(a) Encourage additional cooperation and coordination between local public health and safety agencies with special emphasis on both of the following:

(1) Local public fire services, because it has the primary

responsibility for protecting human life and property when catastrophic releases of hazardous chemicals, fires, or explosions occur.

(2) Operators of oil refineries and chemical plants, in order to help prevent, and if necessary, to control or mitigate, the effects of these occurrences.

(b) Minimize administrative costs necessary to carry out this act so that maximum funding shall be available to support other purposes of the act such as grants to local agencies.

(c) Nothing contained in this chapter shall be construed to grant any additional regulatory control or authority to preempt local governmental control or to amend any existing local governmental ordinance or state statute or regulation.

51021.5. As used in this chapter, the following definitions apply:

(a) "Acutely hazardous material" means any chemical designated an extremely hazardous substance which is listed in Appendix A to Part 355 of Subchapter J of Chapter I of Title 40 of the Code of Federal Regulations.

(b) "Administering agency" means the department, office, or other agency of a county, city, or city and county, designated pursuant to subdivision (c) of Section 25502 of the Health and Safety Code.

(c) "Chemical plant" means any plant or manufacturing or other type of facility, as specified in Code 28 (Chemical and Allied Products) of the Manual of Standard Industrial Classification Codes, published by the United States Office of Management and Budget, 1987 Edition, which handles acutely hazardous material.

(d) "Clearinghouse" means the Statewide Oil Refinery and Chemical Emergency Preparedness Clearinghouse established pursuant to Section 51024.5.

(e) "Committee" means the Technical Advisory Committee on Oil Refinery and Chemical Plant Safety Preparedness established pursuant to Section 51022.

(f) "Explosives" means any material identified in Part 172 (commencing with Section 172.1) of Title 49 of the Code of Federal Regulations.

(g) "Fund" means the California Oil Refinery and Chemical Plant Safety Fund established pursuant to Section 51025.5.

(h) "Oil refinery" means any plant or manufacturing or other type of facility, as specified in Code 29 (Petroleum Refining and Related Industries) of the Manual of Standard Industrial Classification Codes, published by the United States Office of Management and Budget, 1987 Edition, which handles acutely hazardous material.

51022. (a) There is hereby created in the office of the State Fire Marshal the Technical Advisory Committee on Oil Refinery and Chemical Plant Safety Preparedness, which shall be composed of 19 members as follows:

(1) The State Fire Marshal shall appoint 15 members as follows:

(A) Five shall be fire chiefs, representing local fire service agencies in accordance with all of the following:

(i) One chief shall represent a fire department which has been designated as an administering agency and which serves a county with a population of 8,000,000 or more persons and contains at least three oil refineries and two chemical plants within its jurisdiction.

(ii) One chief shall represent a fire department that has been designated as an administering agency and which serves a city with a population of 3,000,000 or more persons and contains at least three oil refineries and two chemical plants within its jurisdiction.

(iii) Two chiefs shall represent fire departments having at least one oil refinery and chemical plant within their respective jurisdiction. One of these chiefs shall represent a fire department located in Southern California that has been designated as an administering agency.

(iv) One chief shall represent a fire department located in Northern California that contains at least two oil refineries and one chemical plant within its jurisdiction.

(v) Appointments pursuant to this subparagraph shall be made from a list of candidates provided by the California Fire Chiefs' Association.

(B) Three shall represent operators of oil refineries in California. Two shall represent oil refineries located in southern California, and one shall represent an oil refinery located in northern California. Two shall be appointed from a list of candidates provided by the Western States Petroleum Association. One shall be appointed from a list of candidates provided by the American Independent Refineries Association.

(C) Two shall represent operators of chemical plants in California. One shall represent a chemical plant located in southern California, and the other shall represent a chemical plant located in northern California. These appointments shall be made from a list of candidates provided by the Chemical Industry Council of California.

(D) One shall be a county public health officer or county director of environmental health representing a county with three or more oil refineries and two or more chemical plants. The public health officer or county director of environmental health shall, at the time of appointment, represent a department which has been designated as an administering agency.

(E) One shall be an oil refinery or chemical plant worker at the time of appointment. The appointment shall be made from a list of candidates provided by the California Labor Federation.

(F) One shall be a firefighter with the rank of captain or below who, at the time of appointment, is employed full time by a local public fire service agency as a member of a hazardous materials unit and where that fire department has been designated as an administering agency. The appointment shall be made from a list of candidates provided by the California Labor Federation.

(G) One public member who has expertise in hazard analyses,

emergency preparedness planning, or environmental protection.

(H) One shall be a director of a city or county office of emergency services which has been designated as an administering agency and which serves a jurisdiction containing at least one oil refinery or chemical plant.

(2) The State Fire Marshal, the Director of Industrial Relations or his or her designee from the Division of Occupational Safety and Health, the Director of Emergency Services, and the Secretary for Environmental Protection or his or her designee shall serve as members of the committee.

(b) The State Fire Marshal shall serve as chairperson of the committee.

51022.5. (a) Meetings of the committee and its subcommittees shall be subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2).

(b) The committee may create subcommittees of its membership, and each subcommittee may meet as often as the subcommittee members find necessary.

51023. (a) Members of the committee shall receive no compensation for their services, but shall be reimbursed for expenses actually and necessarily incurred by them in the performance of their duties under this chapter.

(b) The State Fire Marshal shall provide staff support to the committee for the purposes of carrying out the provisions of this chapter. The committee may also request and receive from the Department of Industrial Relations, the Office of Emergency Services, and the California Environmental Protection Agency staff assistance, information, and data which shall enable the committee to carry out the functions and duties specified in this chapter.

51023.5. (a) On or before July 1, 1993, the committee shall provide a report to the Governor and the Legislature.

(b) The report required by subdivision (a) shall include all of the following:

(1) Evaluation of and any resulting recommendations regarding the adequacy of existing state and federal statutes and regulations intended to protect communities located near oil refineries and chemical plants in the event of a catastrophic release of acutely hazardous material, of fire, or of explosion.

(2) Recommendations to resolve any overlap, duplication, and inconsistencies, not only between state statutes and regulations, but also regarding applicable federal statutes and regulations governing emergency preparedness plans, practices, and requirements intended to protect nearby communities from the risks associated with a catastrophic release of acutely hazardous material, with fire, or with explosion.

(3) Recommendations to resolve inconsistencies in definitions used in state statutes and regulations and in federal statutes and regulations to define terms including, but not limited to, "chemical

plant," "oil refinery," and terms signifying other facilities which handle hazardous or explosive material and which may, in the determination of the committee, pose a significant accident risk to nearby communities.

51024. (a) On or before July 1, 1993, the committee shall establish a list of priority programs, including, but not limited to, financial, technical, and training assistance to aid local public fire service and other public health and safety agencies, providing service to jurisdictions containing oil refineries and chemical plants, and preparation for potential catastrophic releases of acutely hazardous material, for fires, and for explosions. Annually thereafter, the committee may revise the list of priority programs prepared pursuant to this subdivision.

(b) Within 90 days of appropriation by the Legislature of the funds contained in the California Oil Refinery and Chemical Plant Safety Fund, created pursuant to Section 51025.5, the State Fire Marshal, with the advice of the committee, shall award these funds, in the form of grant awards, pursuant to subdivision (c).

(c) (1) The committee shall recommend, and the State Fire Marshal shall award, grants to local public agencies, or to combinations thereof, for purposes consistent with one or more of the established priority programs. These awards shall not supplant other funds under that local agency's control which would have been, in the absence of grant funds, expended for those same purposes.

(2) The committee may recommend, and the State Fire Marshal may award, grants to accredited private and public colleges and universities, or to combinations thereof, or to other organizations which the State Fire Marshal, upon receiving the recommendations of the committee, finds qualified, to provide training or other technical assistance, such as, but not limited to, development of a hazardous analysis training program determined by the committee to be consistent with the purposes of this chapter.

(3) In the event that any grant award made by the State Fire Marshal pursuant to this subdivision is for purposes substantially different from those recommended by the committee, the State Fire Marshal shall, within 20 business days of making the grant, submit a written report explaining the reason or reasons for the deviation from the recommendation to the Governor, the Legislature, and the committee.

51024.5. (a) On or before January 1, 1993, the committee shall develop and adopt a plan to establish and operate the Statewide Oil Refinery and Chemical Emergency Preparedness Information Clearinghouse. The State Fire Marshal shall establish the Statewide Oil Refinery and Chemical Emergency Preparedness Information Clearinghouse.

(b) The purpose of the clearinghouse shall be to identify and implement ways to ensure and improve effective and continuous communication among public health and safety agencies, the

communities they serve, and operators of oil refineries and chemical plants regarding the prevention of, and preparation for, potential catastrophic releases of acutely hazardous material, fires, and explosions. This clearinghouse shall be established to obtain and share information. It shall not be authorized to exercise regulatory controls. Efforts of the clearinghouse may include, but shall not be limited to, strengthening and expanding programs such as community awareness programs.

51025. (a) The State Fire Marshal, with the advice of the committee, shall adopt regulations governing the assessment and collection of reasonable fees from operators of oil refineries and chemical plants for the purposes specified in this chapter.

(b) The adoption of regulations pursuant to this section shall be deemed to be an emergency, and necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding subdivision (h) of Section 11346.1, and Section 11349.6, the State Fire Marshal shall transmit regulations adopted pursuant to this section directly to the Secretary of State for filing. The regulations shall be filed by the Secretary of State as emergency regulations and shall become effective immediately for a period not to exceed one year.

(c) In determining the fee schedule, the State Fire Marshal shall consider all of the following:

(1) The volume of acutely hazardous materials or explosives handled by the chemical plant or oil refinery.

(2) The complexity and size of the manufacturing, refining, or chemical processes undertaken at each facility.

(3) The potential for risk, as determined by the committee, to employees of the oil refinery or chemical plant and to nearby communities.

(4) The amount of estimated expenditures for support of purposes consistent with this chapter.

(d) An amount not totaling more than five hundred thousand dollars ($500,000) in fees shall be collected.

(e) Regulations pursuant to this section shall be developed not later than January 1, 1993.

51025.2. (a) The State Fire Marshal, with the advice of the committee, shall develop regulations governing the assessment and collection of reasonable fees from operators of oil refineries and chemical plants for the purposes specified in this chapter.

(b) In determining the fee schedule, the State Fire Marshal shall consider all of the following:

(1) The volume of acutely hazardous materials or explosives handled by the chemical plant or oil refinery.

(2) The complexity and size of the manufacturing, refining, or chemical processes undertaken at each facility.

(3) The potential for risk, as determined by the committee, to employees of the oil refinery or chemical plant and to nearby communities.

(4) The amount of estimated expenditures for support of purposes consistent with this chapter.

(c) An amount not totaling more than five hundred thousand dollars ($500,000) in fees shall be collected for the 1992–93 fiscal year, and an amount totaling not more than one million dollars ($1,000,000) in fees shall be collected for each subsequent fiscal year.

(d) Regulations pursuant to this section shall be developed not later than January 1, 1994.

51025.5. (a) There is hereby created the California Oil Refinery and Chemical Plant Safety Fund.

(b) All fees collected pursuant to Section 51025 shall be deposited in the fund. These funds shall be available, upon appropriation, in the annual Budget Act, by the Legislature, to the State Fire Marshal for the purposes of carrying out this chapter, including administrative costs incurred by the State Fire Marshal, the Department of Industrial Relations, the Office of Emergency Services, and the California Environmental Protection Agency, in providing staff and other services authorized pursuant to Section 51023.

51026. This chapter shall remain in effect only until January 1, 1997, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1997, deletes or extends that date.

CHAPTER 925

An act to add Section 3262.5 to the Civil Code, relating to public utilities.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 3262.5 is added to the Civil Code, to read:

3262.5. (a) Any person or corporation which has contracted to do business with a public utility, hereafter referred to in this section as a contractor, shall pay any subcontractors within 15 working days of receipt of each progress payment from the public utility, unless otherwise agreed in writing by the parties, the respective amounts allowed the contractor on account of the work performed by the subcontractors, to the extent of each of the subcontractors' interest in that work. In the event that there is a good faith dispute over all or any portion of the amount due on a progress payment from a contractor to a subcontractor, then the contractor may withhold no more than 150 percent of the disputed amount.

(b) Any contractor who violates this section shall pay to the subcontractor a penalty of 2 percent of the disputed amount due per month for every month that payment is not made. In any action for the collection of funds wrongfully withheld, the prevailing party

shall be entitled to his or her attorney's fees and costs.

(c) This section shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to a contractor or a subcontractor in the event of a dispute involving late payment or nonpayment by a contractor, or deficient performance or nonperformance by a subcontractor.

CHAPTER 926

An act to amend Section 87012 of, and to amend and repeal Section 68075.1 of, the Education Code, relating to postsecondary education.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 68075.1 of the Education Code is amended to read:

68075.1. (a) Notwithstanding Section 68075, a student who is a member of the armed forces of the United States stationed in this state on active duty, except a member of the armed forces assigned for educational purposes to state-supported institutions of higher education, is entitled to resident classification at a campus of the California State University.

(b) Notwithstanding Section 68075, a student who is a member of the armed forces of the United States stationed in this state on active duty, except a member of the armed forces assigned for educational purposes to state-supported institutions of higher education, is entitled to resident classification at any campus of the California Community Colleges that has not exceeded its funded growth limitation set forth in Section 84750, and who meets all of the following requirements:

(1) Has exhausted all federal veterans' program educational benefits.

(2) Demonstrates financial need as determined in accordance with Section 69506.

(c) This section shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1994, deletes or extends that date.

SEC. 2. Section 87012 of the Education Code is amended to read:

87012. (a) Except as provided in subdivision (e), on or after July 1, 1990, the board of governors shall refuse to accept credential applications, and shall only approve or deny all credential applications that were received prior to July 1, 1990.

(b) The State Bureau of Criminal Identification and Investigation shall, with respect to all individuals who apply for or who have been issued credentials by the board of governors, continue to furnish the

board of governors with all information pertaining to any credential applicant or holder of whom there is a record in the State Bureau of Criminal Identification and Investigation.

(c) The board of governors may secure records or reports from the State Bureau of Criminal Identification and Investigation regarding individuals who hold valid credentials issued by the board of governors.

(d) The board of governors shall periodically report to community college districts regarding information it receives from the State Bureau of Criminal Identification and Investigation. The reports shall be limited to records related to any sex offense, as defined in Section 87010, any controlled substance offense, as defined in Section 87011, or offenses defined in Article 1 (commencing with Section 5500) of Chapter 1 of Part 1.5 of Division 6 of the Welfare and Institutions Code as that article read on June 30, 1969.

(e) The board of governors may accept and either approve or deny the credential application of any qualified individual who can demonstrate proof that he or she submitted a completed credential application to a community college prior to July 1, 1990, but whose credential application was not received by the board of governors prior to that date. Any credential applicant who meets the requirements of this subdivision shall resubmit his or her application directly to the board of governors prior to January 15, 1992. The board of governors may accept and either approve or deny only those credential applications submitted in accordance with this subdivision that are received by the board of governors prior to January 15, 1992.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 927

An act to amend Sections 1033.5, 1033.7, 1070, 1070.5, 3774, 3774.5, 5285, 5285.5, 5378, and 5378.5 of, and to add Sections 3811, 5314.6, and 5411.6 to, the Public Utilities Code, relating to highway carriers, and making an appropriation therefor.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 1033.5 of the Public Utilities Code is amended to read:

1033.5. (a) The commission may, at any time for good cause, suspend an operating right acquired by virtue of operations conducted on July 29, 1927, or a certificate of public convenience and necessity and, upon notice to the holder and opportunity to be heard, revoke, alter, or amend the operating right or certificate.

(b) As an alternative to the suspension, revocation, alteration, or amendment of an operating right or certificate, the commission may impose upon the holder a fine not to exceed five thousand dollars ($5,000). The commission may assess interest upon any fine imposed, the interest to commence upon the day the payment of the fine is delinquent. All fines and interest collected shall be deposited at least once each month in the Public Utilities Commission Transportation Reimbursement Account in the General Fund.

(c) For purposes of this section, "good cause" includes, but is not limited to, either of the following:

(1) A consistent failure of the holder of the operating right or certificate to maintain vehicles in a safe operating condition and in compliance with the Vehicle Code and with regulations contained in Title 13 of the California Code of Regulations relative to motor vehicle safety, as shown by the records of the commission, the Department of Motor Vehicles, the Department of the California Highway Patrol, or the passenger stage corporation.

(2) The holder's knowing and willful filing of a false report which understates revenues and fees.

SEC. 2. Section 1033.7 of the Public Utilities Code is amended to read:

1033.7. (a) Upon receipt of a written recommendation from the Department of the California Highway Patrol that the certificate of a passenger stage corporation be suspended either (1) for failure to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety, if that failure is either a consistent failure or presents an imminent danger to public safety, or (2) for failure to comply with the pull notice system or periodic

report requirements required by Section 1808.1 of the Vehicle Code, the commission shall, pending a hearing in the matter pursuant to subdivision (d), suspend the corporation's certificate. The department's written recommendation shall specifically indicate compliance with subdivision (c).

(b) A corporation whose certificate is suspended pursuant to subdivision (a) may obtain a reinspection of its terminal and vehicles by the department, by submitting a written request for reinstatement to the commission and paying a reinstatement fee of one hundred twenty-five dollars ($125). The commission shall deposit all reinstatement fees collected pursuant to this subdivision in the Public Utilities Commission Transportation Reimbursement Account. The commission shall forward a request for reinspection to the department which shall perform a reinspection within a reasonable time. The commission shall reinstate a corporation's certificate suspended under subdivision (a) promptly upon receipt of a written recommendation from the department that the corporation's safety compliance has improved to the satisfaction of the department, unless the certificate is suspended for another reason or has been revoked.

(c) Before transmitting a recommendation pursuant to subdivision (a) to the commission, the Department of the California Highway Patrol shall notify the passenger stage corporation in writing of all of the following:

(1) That the department has determined that the corporation's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in a suspension or revocation of the corporation's certificate by the commission.

(3) That the corporation may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. If a review pursuant to this paragraph is requested by the corporation, the department shall conduct and evaluate that review prior to transmitting any notification to the commission pursuant to subdivision (a).

(d) Whenever the commission suspends the certificate of any passenger stage corporation pursuant to subdivision (a), the commission shall furnish the corporation written notice of the suspension and shall hold a hearing within a reasonable time, not to exceed 21 days, after a written request therefor is filed with the commission, with a copy thereof furnished to the Department of the California Highway Patrol. At the hearing, the corporation shall show cause why the suspension should not be continued. At the conclusion of the hearing, the commission may, in addition to any other applicable penalty provided in this part, terminate the suspension, continue the suspension in effect, or revoke the certificate. The commission may revoke the certificate of any passenger stage corporation suspended pursuant to subdivision (a) at any time 90

days or more after its suspension if the commission has not received a written recommendation for reinstatement from the department and the corporation has not filed a written request for a hearing with the commission.

(e) If the commission, after a hearing, finds that a passenger stage corporation has continued to operate as such after its certificate has been suspended pursuant to subdivision (a), the commission shall do one of the following:

(1) Revoke the certificate of the corporation.

(2) Impose upon the holder of the certificate a civil penalty of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) for each day of unlawful operations.

SEC. 2.7. Section 1033.7 of the Public Utilities Code is amended to read:

1033.7. (a) Upon receipt of a written recommendation from the Department of the California Highway Patrol that the certificate of a passenger stage corporation be suspended either (1) for failure to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety, if that failure is either a consistent failure or presents an imminent danger to public safety, or (2) for failure to enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code, the commission shall, pending a hearing in the matter pursuant to subdivision (d), suspend the corporation's certificate. The department's written recommendation shall specifically indicate compliance with subdivision (c).

(b) A corporation whose certificate is suspended pursuant to subdivision (a) may obtain a reinspection of its terminal and vehicles by the department, by submitting a written request for reinstatement to the commission and paying a reinstatement fee of one hundred twenty-five dollars ($125). The commission shall deposit all reinstatement fees collected pursuant to this subdivision in the Public Utilities Commission Transportation Reimbursement Account. The commission shall forward a request for reinspection to the department which shall perform a reinspection within a reasonable time. The commission shall reinstate a corporation's certificate suspended under subdivision (a) promptly upon receipt of a written recommendation from the department that the corporation's safety compliance has improved to the satisfaction of the department, unless the certificate is suspended for another reason or has been revoked.

(c) Before transmitting a recommendation pursuant to subdivision (a) to the commission, the Department of the California Highway Patrol shall notify the passenger stage corporation in writing of all of the following:

(1) That the department has determined that the corporation's safety record is unsatisfactory, furnishing a copy of any

documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in a suspension or revocation of the corporation's certificate by the commission.

(3) That the corporation may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. If a review pursuant to this paragraph is requested by the corporation, the department shall conduct and evaluate that review prior to transmitting any notification to the commission pursuant to subdivision (a).

(d) Whenever the commission suspends the certificate of any passenger stage corporation pursuant to subdivision (a), the commission shall furnish the corporation written notice of the suspension and shall hold a hearing within a reasonable time, not to exceed 21 days, after a written request therefor is filed with the commission, with a copy thereof furnished to the Department of the California Highway Patrol. At the hearing, the corporation shall show cause why the suspension should not be continued. At the conclusion of the hearing, the commission may, in addition to any other applicable penalty provided in this part, terminate the suspension, continue the suspension in effect, or revoke the certificate. The commission may revoke the certificate of any passenger stage corporation suspended pursuant to subdivision (a) at any time 90 days or more after its suspension if the commission has not received a written recommendation for reinstatement from the department and the corporation has not filed a written request for a hearing with the commission.

(e) If the commission, after a hearing, finds that a passenger stage corporation has continued to operate as such after its certificate has been suspended pursuant to subdivision (a), the commission shall do one of the following:

(1) Revoke the certificate of the corporation.

(2) Impose upon the holder of the certificate a civil penalty of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) for each day of unlawful operations.

SEC. 3. Section 1070 of the Public Utilities Code is amended to read:

1070. (a) The commission may, at any time, for a good cause, suspend, and upon notice to the holder of a certificate, and upon opportunity to be heard, revoke, alter, or amend, that certificate.

(b) As an alternative to the suspension, revocation, alteration, or amendment of a certificate pursuant to subdivision (a), the commission may impose upon the holder of the certificate a fine of not more than twenty thousand dollars ($20,000). The commission may assess interest upon any fine imposed, the interest to commence upon the day the payment of the fine is delinquent. All fines and interest collected shall be deposited at least once each month in the State Treasury to the credit of the General Fund.

(c) For purposes of this section, "good cause" includes, but is not

limited to, either of the following:

(1) A consistent failure of the holder of the certificate to maintain vehicles in a safe operating condition and in compliance with the Vehicle Code and with regulations contained in Title 13 of the California Code of Regulations relative to motor vehicle safety, as shown by the records of the commission, the Department of the California Highway Patrol, or the common carrier.

(2) The holder's knowing and willful filing of a false report which understates revenues and fees.

SEC. 4. Section 1070.5 of the Public Utilities Code is amended to read:

1070.5. (a) Upon receipt of a written recommendation from the Department of the California Highway Patrol that the certificate of a highway common carrier or cement carrier be suspended either: (1) for failure to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety, if that failure is either a consistent failure or presents an imminent danger to public safety, or (2) for failure to comply with the pull notice system or periodic report requirements required by Section 1808.1 of the Vehicle Code, the commission shall, pending a hearing in the matter pursuant to subdivision (d), suspend the carrier's certificate. The department's written recommendation shall specifically indicate compliance with subdivision (c).

(b) A carrier whose certificate is suspended pursuant to subdivision (a) may obtain a reinspection of its terminal and vehicles by the department, by submitting a written request for reinstatement to the commission and paying a reinstatement fee of one hundred twenty-five dollars ($125). The commission shall deposit all reinstatement fees collected pursuant to this subdivision in the Transportation Rate Fund. The commission shall forward a request for reinspection to the department which shall perform a reinspection within a reasonable time. The commission shall reinstate a carrier's certificate suspended under subdivision (a) promptly upon receipt of a written recommendation from the department that the carrier's safety compliance has improved to the satisfaction of the department, unless the certificate is suspended for another reason or has been revoked.

(c) Before transmitting a recommendation pursuant to subdivision (a) to the commission, the Department of the California Highway Patrol shall notify the highway common carrier or cement carrier in writing of all of the following:

(1) That the department has determined that the carrier's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in a suspension or revocation of the carrier's certificate by the commission.

(3) That the carrier may request a review of the determination by

the department within five days of its receipt of the notice required under this subdivision. If a review pursuant to this paragraph is requested by the carrier, the department shall conduct and evaluate that review prior to transmitting any notification to the commission pursuant to subdivision (a).

(d) Whenever the commission suspends the certificate of any highway common carrier or cement carrier pursuant to subdivision (a), the commission shall furnish the carrier written notice of the suspension and shall hold a hearing within a reasonable time, not to exceed 21 days, after a written request therefor is filed with the commission, with a copy thereof furnished to the Department of the California Highway Patrol. At the hearing, the carrier shall show cause why the suspension should not be continued. At the conclusion of the hearing, the commission may, in addition to any other applicable penalty provided in this part, terminate the suspension, continue the suspension in effect, or revoke the certificate. The commission may revoke the certificate of any highway common carrier or cement carrier suspended pursuant to subdivision (a) at any time 90 days or more after its suspension if the commission has not received a written recommendation for reinstatement from the department and the carrier has not filed a written request for a hearing with the commission.

(e) If the commission, after a hearing, finds that a highway common carrier or cement carrier has continued to operate as such a carrier after its certificate has been suspended pursuant to subdivision (a), the commission shall do one of the following:

(1) Revoke the certificate of the carrier.

(2) Impose upon the holder of the certificate a civil penalty of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) for each day of unlawful operations.

SEC. 4.5. Section 1070.5 of the Public Utilities Code is amended to read:

1070.5. (a) Upon receipt of a written recommendation from the Department of the California Highway Patrol that the certificate of a highway common carrier or cement carrier be suspended either: (1) for failure to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety, if that failure is either a consistent failure or presents an imminent danger to public safety, or (2) for failure to enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code, the commission shall, pending a hearing in the matter pursuant to subdivision (d), suspend the carrier's certificate. The department's written recommendation shall specifically indicate compliance with subdivision (c).

(b) A carrier whose certificate is suspended pursuant to subdivision (a) may obtain a reinspection of its terminal and vehicles by the department, by submitting a written request for

reinstatement to the commission and paying a reinstatement fee of one hundred twenty-five dollars ($125). The commission shall deposit all reinstatement fees collected pursuant to this subdivision in the Transportation Rate Fund. The commission shall forward a request for reinspection to the department which shall perform a reinspection within a reasonable time. The commission shall reinstate a carrier's certificate suspended under subdivision (a) promptly upon receipt of a written recommendation from the department that the carrier's safety compliance has improved to the satisfaction of the department, unless the certificate is suspended for another reason or has been revoked.

(c) Before transmitting a recommendation pursuant to subdivision (a) to the commission, the Department of the California Highway Patrol shall notify the highway common carrier or cement carrier in writing of all of the following:

(1) That the department has determined that the carrier's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in a suspension or revocation of the carrier's certificate by the commission.

(3) That the carrier may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. If a review pursuant to this paragraph is requested by the carrier, the department shall conduct and evaluate that review prior to transmitting any notification to the commission pursuant to subdivision (a).

(d) Whenever the commission suspends the certificate of any highway common carrier or cement carrier pursuant to subdivision (a), the commission shall furnish the carrier written notice of the suspension and shall hold a hearing within a reasonable time, not to exceed 21 days, after a written request therefor is filed with the commission, with a copy thereof furnished to the Department of the California Highway Patrol. At the hearing, the carrier shall show cause why the suspension should not be continued. At the conclusion of the hearing, the commission may, in addition to any other applicable penalty provided in this part, terminate the suspension, continue the suspension in effect, or revoke the certificate. The commission may revoke the certificate of any highway common carrier or cement carrier suspended pursuant to subdivision (a) at any time 90 days or more after its suspension if the commission has not received a written recommendation for reinstatement from the department and the carrier has not filed a written request for a hearing with the commission.

(e) If the commission, after a hearing, finds that a highway common carrier or cement carrier has continued to operate as such a carrier after its certificate has been suspended pursuant to subdivision (a), the commission shall do one of the following:

(1) Revoke the certificate of the carrier.

(2) Impose upon the holder of the certificate a civil penalty of not

less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) for each day of unlawful operations.

SEC. 5. Section 3774 of the Public Utilities Code is amended to read:

3774. The commission may cancel, revoke, or suspend the operating permit or permits of any highway carrier upon any of the following grounds:

(a) Any illegally conducted highway carrier operations.

(b) The violation of any of the provisions of this chapter, or of any operating permit issued thereunder.

(c) The violation of any order, decision, rule, regulation, direction, demand, or requirement established by the commission pursuant to this chapter.

(d) The conviction of the highway carrier of any misdemeanor under this chapter.

(e) The rendition of a judgment against the highway carrier for any penalty imposed under this chapter.

(f) The failure of a highway carrier to pay any fee imposed upon the carrier within the time required by law.

(g) The consistent failure of the highway carrier to maintain its vehicles in a safe operating condition and in compliance with the Vehicle Code and with regulations contained in Title 13 of the California Code of Regulations relative to motor vehicle safety, as shown by the records of the commission, the Department of the California Highway Patrol, or the highway carrier.

(h) The knowing and willful filing of a false report which understates revenues and fees.

(i) As an alternative to the cancellation, revocation, or suspension of an operating permit or permits, the commission may impose upon the holder of the permit or permits a fine of not exceeding twenty thousand dollars ($20,000). The commission may assess interest upon any fine imposed, the interest to commence upon the day the payment of the fine is delinquent. All fines and interest collected shall be deposited at least once each month in the State Treasury to the credit of the General Fund.

SEC. 6. Section 3774.5 of the Public Utilities Code is amended to read:

3774.5. (a) Upon receipt of a written recommendation from the Department of the California Highway Patrol that the permit of a highway permit carrier be suspended either (1) for failure to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety, if that failure is either a consistent failure or presents an imminent danger to public safety, or (2) for failure to comply with the pull notice system or periodic report requirements required by Section 1808.1 of the Vehicle Code, the commission shall, pending a hearing in the matter pursuant to subdivision (d), suspend the carrier's permit. The written

recommendation shall specifically indicate compliance with subdivision (c).

(b) A carrier whose certificate is suspended pursuant to subdivision (a) may obtain a reinspection of its terminal and vehicles by the department, by submitting a written request for reinstatement to the commission and paying a reinstatement fee of one hundred twenty-five dollars ($125). The commission shall deposit all reinstatement fees collected pursuant to this subdivision in the Transportation Rate Fund. The commission shall forward a request for reinspection to the department which shall perform a reinspection within a reasonable time. The commission shall reinstate a carrier's permit suspended under subdivision (a) promptly upon receipt of a written recommendation from the department that the carrier's safety compliance has improved to the satisfaction of the department, unless the permit is suspended for another reason or has been revoked.

(c) Before transmitting a recommendation pursuant to subdivision (a) to the commission, the Department of the California Highway Patrol shall notify the highway permit carrier in writing of all of the following:

(1) That the department has determined that the carrier's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in a suspension or revocation of the carrier's permit by the commission.

(3) That the carrier may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. If a review pursuant to this paragraph is requested by the carrier, the department shall conduct and evaluate that review prior to transmitting any notification to the commission pursuant to subdivision (a).

(d) Whenever the commission suspends the permit of any highway permit carrier pursuant to subdivision (a), the commission shall furnish the carrier written notice of the suspension and shall hold a hearing within a reasonable time, not to exceed 21 days, after a written request therefor is filed with the commission, with a copy thereof furnished to the Department of the California Highway Patrol. At the hearing, the carrier shall show cause why the suspension should not be continued. At the conclusion of the hearing, the commission may, in addition to any other applicable penalty provided in this chapter, terminate the suspension, continue the suspension in effect, or revoke the permit. The commission may revoke the certificate of any highway permit carrier suspended pursuant to subdivision (a) at any time 90 days or more after its suspension if the commission has not received a written recommendation for reinstatement from the department and the carrier has not filed a written request for a hearing with the commission.

(e) If the commission, after a hearing, finds that a highway permit

carrier has continued to operate as such a carrier after its permit or permits have been suspended pursuant to subdivision (a), the commission shall do one of the following:

(1) Revoke the operating permit or permits of the carrier.

(2) Impose upon the holder of the permit or permits a civil penalty of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) for each day of unlawful operations.

SEC. 6.5. Section 3774.5 of the Public Utilities Code is amended to read:

3774.5. (a) Upon receipt of a written recommendation from the Department of the California Highway Patrol that the permit of a highway permit carrier be suspended either (1) for failure to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety, if that failure is either a consistent failure or presents an imminent danger to public safety, or (2) for failure to enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code, the commission shall, pending a hearing in the matter pursuant to subdivision (d), suspend the carrier's permit. The written recommendation shall specifically indicate compliance with subdivision (c).

(b) A carrier whose certificate is suspended pursuant to subdivision (a) may obtain a reinspection of its terminal and vehicles by the department, by submitting a written request for reinstatement to the commission and paying a reinstatement fee of one hundred twenty-five dollars ($125). The commission shall deposit all reinstatement fees collected pursuant to this subdivision in the Transportation Rate Fund. The commission shall forward a request for reinspection to the department which shall perform a reinspection within a reasonable time. The commission shall reinstate a carrier's permit suspended under subdivision (a) promptly upon receipt of a written recommendation from the department that the carrier's safety compliance has improved to the satisfaction of the department, unless the permit is suspended for another reason or has been revoked.

(c) Before transmitting a recommendation pursuant to subdivision (a) to the commission, the Department of the California Highway Patrol shall notify the highway permit carrier in writing of all of the following:

(1) That the department has determined that the carrier's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in a suspension or revocation of the carrier's permit by the commission.

(3) That the carrier may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. If a review pursuant to this paragraph is requested by the carrier, the department shall conduct and evaluate

that review prior to transmitting any notification to the commission pursuant to subdivision (a).

(d) Whenever the commission suspends the permit of any highway permit carrier pursuant to subdivision (a), the commission shall furnish the carrier written notice of the suspension and shall hold a hearing within a reasonable time, not to exceed 21 days, after a written request therefor is filed with the commission, with a copy thereof furnished to the Department of the California Highway Patrol. At the hearing, the carrier shall show cause why the suspension should not be continued. At the conclusion of the hearing, the commission may, in addition to any other applicable penalty provided in this chapter, terminate the suspension, continue the suspension in effect, or revoke the permit. The commission may revoke the certificate of any highway permit carrier suspended pursuant to subdivision (a) at any time 90 days or more after its suspension if the commission has not received a written recommendation for reinstatement from the department and the carrier has not filed a written request for a hearing with the commission.

(e) If the commission, after a hearing, finds that a highway permit carrier has continued to operate as such a carrier after its permit or permits have been suspended pursuant to subdivision (a), the commission shall do one of the following:

(1) Revoke the operating permit or permits of the carrier.

(2) Impose upon the holder of the permit or permits a civil penalty of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) for each day of unlawful operations.

SEC. 7. Section 3811 is added to the Public Utilities Code, to read:

3811. Every highway permit carrier and every officer, director, agent, or employee of a highway permit carrier who knowingly and willfully makes a false statement of the carrier's gross operating revenues in order to underpay the commission's reimbursement fees is guilty of a misdemeanor.

SEC. 8. Section 5285 of the Public Utilities Code is amended to read:

5285. (a) The permit of any household goods carrier may be suspended after notice and an opportunity to be heard if the carrier knowingly and willfully files a false report which understates revenues and fees.

(b) The permit of any household goods carrier may, upon application of the holder thereof, be amended or revoked, in whole or in part, or may, upon complaint or on the commission's own initiative, after notice and opportunity to be heard, be suspended, changed, or revoked, in whole or in part, for failure to comply with any provision of this chapter or with any order, rule, or regulation of the commission or with any term, condition, or limitation of the permit. A household goods carrier which requests a hearing within 30 days after receiving the notice and opportunity to be heard shall be granted a hearing. The right to operate under any household

goods carrier permit may be suspended by the commission, upon reasonable notice of not less than 15 days to the holder without hearing or other proceedings, for failure to comply, and until compliance, with Section 5161 or with any order, rule, or regulation of the commission.

(c) As an alternative to the cancellation, revocation, or suspension of an operating permit or permits, the commission may impose upon the holder of the permit or permits a fine of not more than twenty thousand dollars ($20,000). All fines collected shall be deposited at least once each month in the State Treasury to the credit of the General Fund.

(d) The commission may cancel, suspend, or revoke the permit of any carrier upon the conviction of the carrier of any misdemeanor under this chapter while holding operating authority issued by the commission, or the conviction of the carrier or its officers of a felony while holding operating authority issued by the commission, limited to robbery, burglary, larceny, fraud, or intentional dishonesty for personal gain.

SEC. 9. Section 5285.5 of the Public Utilities Code is amended to read:

5285.5. (a) Upon receipt of a written recommendation from the Department of the California Highway Patrol that the permit of a household goods carrier be suspended either (1) for failure to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to carrier safety, if that failure is either a consistent failure or presents an imminent danger to public safety, or (2) for failure to comply with the pull notice system or periodic report requirements required by Section 1808.1 of the Vehicle Code, the commission shall, pending a hearing in the matter pursuant to subdivision (d), suspend the carrier's permit. The written recommendation shall specifically indicate compliance with subdivision (c).

(b) A carrier whose permit is suspended pursuant to subdivision (a) may obtain a reinspection of its terminal and vehicles by the department, by submitting a written request for reinstatement to the commission and paying a reinstatement fee of one hundred twenty-five dollars ($125). The commission shall deposit all reinstatement fees collected pursuant to this subdivision in the Transportation Rate Fund. The commission shall then forward a request for reinspection to the department which shall then perform a reinspection within a reasonable time. The commission shall reinstate a carrier's permit suspended under subdivision (a) promptly upon receipt of a written recommendation from the department that the carrier's safety compliance has improved to the satisfaction of the department, unless the permit is suspended for another reason or has been revoked.

(c) Before transmitting a recommendation pursuant to

subdivision (a) to the commission, the Department of the California Highway Patrol shall notify the household goods carrier in writing of all of the following:

(1) That the department has determined that the carrier's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in a suspension or revocation of the carrier's permit by the commission.

(3) That the carrier may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. If a review pursuant to this paragraph is requested by the carrier, the department shall conduct and evaluate that review prior to transmitting any notification to the commission pursuant to subdivision (a).

(d) Whenever the commission suspends the permit of any household goods carrier pursuant to subdivision (a), the commission shall furnish the carrier written notice of the suspension and shall hold a hearing within a reasonable time, not to exceed 21 days, after a written request therefor is filed with the commission, with a copy thereof furnished to the Department of the California Highway Patrol. At the hearing, the carrier shall show cause why the suspension should not be continued. At the conclusion of the hearing, the commission may, in addition to any other penalty provided in this chapter, terminate the suspension, continue the suspension in effect, or revoke the permit. The commission may revoke the permit of any household goods carrier suspended pursuant to subdivision (a) at any time 90 days or more after its suspension if the commission has not received a written recommendation for reinstatement from the department and the corporation has not filed a written request for a hearing with the commission.

(e) If the commission, after a hearing, finds that a household goods carrier has continued to operate as such a carrier after its permit or permits have been suspended pursuant to subdivision (a), the commission shall do one of the following:

(1) Revoke the operating permit or permits of the carrier.

(2) Impose upon the holder of the permit or permits a civil penalty of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) for each day of unlawful operations.

SEC. 9.5. Section 5285.5 of the Public Utilities Code is amended to read:

5285.5. (a) Upon receipt of a written recommendation from the Department of the California Highway Patrol that the permit of a household goods carrier be suspended either (1) for failure to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety, if that failure is either a consistent failure or presents an imminent danger to public safety, or (2) for failure to enroll all drivers in the pull notice system as

required by Section 1808.1 of the Vehicle Code, the commission shall, pending a hearing in the matter pursuant to subdivision (d), suspend the carrier's permit. The written recommendation shall specifically indicate compliance with subdivision (c).

(b) A carrier whose permit is suspended pursuant to subdivision (a) may obtain a reinspection of its terminal and vehicles by the department, by submitting a written request for reinstatement to the commission and paying a reinstatement fee of one hundred twenty-five dollars ($125). The commission shall deposit all reinstatement fees collected pursuant to this subdivision in the Transportation Rate Fund. The commission shall then forward a request for reinspection to the department which shall then perform a reinspection within a reasonable time. The commission shall reinstate a carrier's permit suspended under subdivision (a) promptly upon receipt of a written recommendation from the department that the carrier's safety compliance has improved to the satisfaction of the department, unless the permit is suspended for another reason or has been revoked.

(c) Before transmitting a recommendation pursuant to subdivision (a) to the commission, the Department of the California Highway Patrol shall notify the household goods carrier in writing of all of the following:

(1) That the department has determined that the carrier's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in a suspension or revocation of the carrier's permit by the commission.

(3) That the carrier may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. If a review pursuant to this paragraph is requested by the carrier, the department shall conduct and evaluate that review prior to transmitting any notification to the commission pursuant to subdivision (a).

(d) Whenever the commission suspends the permit of any household goods carrier pursuant to subdivision (a), the commission shall furnish the carrier written notice of the suspension and shall hold a hearing within a reasonable time, not to exceed 21 days, after a written request therefor is filed with the commission, with a copy thereof furnished to the Department of the California Highway Patrol. At the hearing, the carrier shall show cause why the suspension should not be continued. At the conclusion of the hearing, the commission may, in addition to any other penalty provided in this chapter, terminate the suspension, continue the suspension in effect, or revoke the permit. The commission may revoke the permit of any household goods carrier suspended pursuant to subdivision (a) at any time 90 days or more after its suspension if the commission has not received a written recommendation for reinstatement from the department and the corporation has not filed a written request for a hearing with the commission.

(e) If the commission, after a hearing, finds that a household goods carrier has continued to operate as such a carrier after its permit or permits have been suspended pursuant to subdivision (a), the commission shall do one of the following:

(1) Revoke the operating permit or permits of the carrier.

(2) Impose upon the holder of the permit or permits a civil penalty of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) for each day of unlawful operations.

SEC. 10. Section 5314.6 is added to the Public Utilities Code, to read:

5314.6. Every household goods carrier and every officer, director, agent, or employee of a household goods carrier who knowingly and willfully makes a false statement of the carrier's gross operating revenues in order to underpay the commission's reimbursement fees is guilty of a misdemeanor.

SEC. 11. Section 5378 of the Public Utilities Code is amended to read:

5378. (a) The commission may cancel, revoke, or suspend any operating permit or certificate issued pursuant to this chapter upon any of the following grounds:

(1) The violation of any of the provisions of this chapter, or of any operating permit or certificate issued thereunder.

(2) The violation of any order, decision, rule, regulation, direction, demand, or requirement established by the commission pursuant to this chapter.

(3) The conviction of the charter-party carrier of passengers of any misdemeanor under this chapter while holding operating authority issued by the commission or the conviction of the carrier or its officers of a felony while holding operating authority issued by the commission, limited to robbery, burglary, larceny, fraud, or intentional dishonesty for personal gain.

(4) The rendition of a judgment against the charter-party carrier of passengers for any penalty imposed under this chapter.

(5) The failure of a charter-party carrier of passengers to pay any fee imposed upon the carrier within the time required by law.

(6) On request of the holder of the permit or certificate.

(7) Failure of a permit or certificate holder to operate and perform reasonable service. That failure may include repeated violations of the Vehicle Code or of regulations contained in Title 13 of the California Code of Regulations relative to motor vehicle safety, by employees of the permitholder or certificate holder, that support an inference of unsafe operation or willful neglect of the public safety by the permitholder or certificate holder.

(8) Consistent failure of the charter-party carrier of passengers to maintain its vehicles in a safe operating condition and in compliance with the Vehicle Code and with regulations contained in Title 13 of the California Code of Regulations relative to motor vehicle safety, as shown by the records of the commission, the Department of Motor Vehicles, the Department of the California Highway Patrol, or the

carrier.

(9) The knowing and willful filing of a false report that understates revenues and fees.

(b) The commission may levy a civil penalty of up to five thousand dollars ($5,000) upon the holder of an operating permit or certificate issued pursuant to this chapter, for any of the grounds specified in subdivision (a), as an alternative to canceling, revoking, or suspending the permit or certificate. The commission may also levy interest upon the civil penalty, which shall be calculated as of the date on which the civil penalty is unpaid and delinquent. The commission shall deposit at least monthly all civil penalties and interest collected pursuant to this section into the General Fund.

SEC. 12. Section 5378.5 of the Public Utilities Code is amended to read:

5378.5. (a) Upon receipt of a written recommendation from the Department of the California Highway Patrol that the certificate or permit of a charter-party carrier be suspended either (1) for failure to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety if that failure is either a consistent failure or presents an imminent danger to public safety, or (2) for failure to comply with the pull notice system or periodic report requirements required by Section 1808.1 of the Vehicle Code, the commission shall, pending a hearing in the matter pursuant to subdivision (d), suspend the carrier's certificate or permit. The written recommendation shall specifically indicate compliance with subdivision (c).

(b) A carrier whose certificate or permit is suspended pursuant to subdivision (a) may obtain a reinspection of its terminal and vehicles by the department, by submitting a written request for reinstatement to the commission and paying a reinstatement fee of one hundred twenty-five dollars ($125). The commission shall deposit all reinstatement fees collected pursuant to this subdivision in the Public Utilities Commission Transportation Reimbursement Account. The commission shall then forward a request for reinspection to the department which shall then perform a reinspection within a reasonable time. The commission shall reinstate a carrier's certificate or permit suspended under subdivision (a) promptly upon receipt of a written recommendation from the department that the carrier's safety compliance has improved to the satisfaction of the department, unless the certificate or permit is suspended for another reason, or has been revoked.

(c) Before transmitting a recommendation pursuant to subdivision (a) to the commission, the Department of the California Highway Patrol shall notify the charter-party carrier in writing of all of the following:

(1) That the department has determined that the carrier's safety record is unsatisfactory, furnishing a copy of any documentation or

summary of any other evidence supporting the determination.

(2) That the determination may result in suspension or revocation of the carrier's certificate or permit by the commission.

(3) That the carrier may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. If a review pursuant to this paragraph is requested by the carrier, the department shall conduct and evaluate that review prior to transmitting any notification to the commission pursuant to subdivision (a).

(d) Whenever the commission suspends the certificate or permit of any charter-party carrier pursuant to subdivision (a), the commission shall furnish the carrier written notice of the suspension and shall hold a hearing within a reasonable time, not to exceed 21 days, after a written request therefor is filed with the commission, with a copy thereof furnished to the Department of the California Highway Patrol. At the hearing, the carrier shall show cause why the suspension should not be continued. At the conclusion of the hearing, the commission may, in addition to any other penalty provided in this chapter, terminate the suspension, continue the suspension in effect, or revoke the certificate or permit. The commission may revoke the certificate or permit of any carrier suspended pursuant to subdivision (a) at any time 90 days or more after its suspension if the commission has not received a written recommendation for reinstatement from the department and the carrier has not filed a written request for a hearing with the commission.

(e) If the commission, after a hearing, finds that a charter-party carrier has continued to operate as such a carrier after its certificate or permit has been suspended pursuant to subdivision (a), the commission shall do one of the following:

(1) Revoke the operating certificate or permit of the carrier.

(2) Impose upon the holder of the certificate or permit a civil penalty of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) for each day of unlawful operations.

SEC. 12.5. Section 5378.5 of the Public Utilities Code is amended to read:

5378.5. (a) Upon receipt of a written recommendation from the Department of the California Highway Patrol that the certificate or permit of a charter-party carrier be suspended either (1) for failure to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety if that failure is either a consistent failure or presents an imminent danger to public safety, or (2) for failure to enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code, the commission shall, pending a hearing in the matter pursuant to subdivision (d), suspend the carrier's certificate or permit. The written recommendation shall specifically indicate compliance with subdivision (c).

(b) A carrier whose certificate or permit is suspended pursuant to

subdivision (a) may obtain a reinspection of its terminal and vehicles by the department, by submitting a written request for reinstatement to the commission and paying a reinstatement fee of one hundred twenty-five dollars ($125). The commission shall deposit all reinstatement fees collected pursuant to this subdivision in the Public Utilities Commission Transportation Reimbursement Account. The commission shall then forward a request for reinspection to the department which shall then perform a reinspection within a reasonable time. The commission shall reinstate a carrier's certificate or permit suspended under subdivision (a) promptly upon receipt of a written recommendation from the department that the carrier's safety compliance has improved to the satisfaction of the department, unless the certificate or permit is suspended for another reason, or has been revoked.

(c) Before transmitting a recommendation pursuant to subdivision (a) to the commission, the Department of the California Highway Patrol shall notify the charter-party carrier in writing of all of the following:

(1) That the department has determined that the carrier's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in suspension or revocation of the carrier's certificate or permit by the commission.

(3) That the carrier may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. If a review pursuant to this paragraph is requested by the carrier, the department shall conduct and evaluate that review prior to transmitting any notification to the commission pursuant to subdivision (a).

(d) Whenever the commission suspends the certificate or permit of any charter-party carrier pursuant to subdivision (a), the commission shall furnish the carrier written notice of the suspension and shall hold a hearing within a reasonable time, not to exceed 21 days, after a written request therefor is filed with the commission, with a copy thereof furnished to the Department of the California Highway Patrol. At the hearing, the carrier shall show cause why the suspension should not be continued. At the conclusion of the hearing, the commission may, in addition to any other penalty provided in this chapter, terminate the suspension, continue the suspension in effect, or revoke the certificate or permit. The commission may revoke the certificate or permit of any carrier suspended pursuant to subdivision (a) at any time 90 days or more after its suspension if the commission has not received a written recommendation for reinstatement from the department and the carrier has not filed a written request for a hearing with the commission.

(e) If the commission, after a hearing, finds that a charter-party carrier has continued to operate as such a carrier after its certificate or permit has been suspended pursuant to subdivision (a), the commission shall do one of the following:

(1) Revoke the operating certificate or permit of the carrier.

(2) Impose upon the holder of the certificate or permit a civil penalty of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) for each day of unlawful operations.

SEC. 13. Section 5411.6 is added to the Public Utilities Code, to read:

5411.6. Every charter party carrier of passengers and every officer, director, agent, or employee of a charter party carrier of passengers who knowingly and willfully makes a false statement of the carrier's gross operating revenues in order to underpay the commission's reimbursement fees is guilty of a misdemeanor.

SEC. 14. Sections 2.7, 4.5, 6.5, 9.5, and 12.5 of this bill incorporate amendments to Sections 1033.7, 1070.5, 3774.5, 5285.5, and 5378.5, respectively, of the Public Utilities Code proposed by both this bill and AB 842. They shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2) each bill amends Sections 1033.7, 1070.5, 3774.5, 5285.5, and 5378.5 of the Public Utilities Code, and (3) this bill is enacted after AB 842, in which case Sections 1033.7, 1070.5, 3774.5, 5285.5, and 5378.5 of the Public Utilities Code, as amended by AB 1886, shall remain operative only until the operative date of this bill, at which time Sections 2.7, 4.5, 6.5, 9.5, and 12.5 of this bill shall become operative, and Sections 2.5, 4, 6, 9, and 12 of this bill shall not become operative.

SEC. 15. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 928

An act to amend Section 14524.15 of, and to add Section 29535.3 to, the Government Code, to amend Sections 1033.7, 1070.5, 2892, 3774.5, 5285.5, 5378.5, and 5378.6 of the Public Utilities Code, to amend the heading of Article 2 (commencing with Section 70) of Chapter 1 of Division 1 of, and to repeal Section 506 of, the Streets and Highways Code, and to amend Sections 286, 405, 471, 1804, 1808.1, 2402.6, 11728, 12800, 12804.9, 12811, 12811.1, 13002, 13005, 22511.8, 22651.5, 22710, 23103, 34501.2, 34501.12, 34505.1, 34505.6, 34506, 40000.6, 40000.21, and 42001.2 of, to add Sections 22511.9 and 25258.1 to, and to amend, repeal, and add Section 12810.5 of, and to repeal Section 13000.5 of, and to amend Section 1 of Chapter 273 of the Statutes of 1991 of, the

Vehicle Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. This act shall be known as the Second Omnibus Transportation Act of 1991.

SEC. 2. Section 14524.15 of the Government Code is amended to read:

14524.15. (a) Not later than January 15 of each year, the department shall submit to the appropriate fiscal and policy committees of the Legislature, and to the Joint Legislative Budget Committee, a project delivery plan based on the state transportation improvement program adopted by the commission pursuant to Section 14529 on or before the preceding July 1. The plan shall consist of all of the following:

(1) The capital outlay staffing needs of the department for project study reports, project development, surveying, and construction inspection in the next fiscal year necessary to deliver the adopted state transportation improvement program and any new funding capacity as indicated in the adopted funding estimate for the subsequent state transportation improvement program period, including projects to be advanced.

(2) Beginning with the plan due on November 15, 1990, the department shall reconcile the capital outlay project development staffing estimates made in previous plans with staffing actually available and the staffing actually required to perform the identified work for the state transportation improvement program.

(3) A determination of that portion of the workload developed pursuant to subdivision (a) that is proposed to be accomplished by the department's staff and that portion that is proposed by the department to be accomplished by contract for professional and technical services.

(b) The Legislative Analyst shall include its assessment of the department's project delivery plan in its annual analysis of the Governor's proposed budget. This assessment shall include each of the following:

(1) An analysis of the progress the department has made in the prior year toward delivering projects as scheduled in the adopted state transportation improvement program.

(2) An overall assessment of the plan's adequacy in ensuring that all federal, state, local, and private funds are used in a timely and efficient manner with a minimum of project delays.

(3) The Legislative Analyst's recommendations, if any, for improving the project delivery performance.

(4) The extent to which the department continues to meet its

affirmative action goals, including those personnel year equivalents contracted out pursuant to Article 2.5 (commencing with Section 14130) of Chapter 2 of Part 5.

(5) The extent to which the department has met the minority and women business enterprise goals established pursuant to that article.

(c) Beginning on January 1, 1989, and on January 1 of each year thereafter, the department shall report to the Governor and the Legislature on the level of participation by minority and women business enterprises in contracting pursuant to this article. If the established goals are not met, the department shall report the reasons for its inability to achieve the standards and identify remedial steps it shall take.

(d) Not later than April 15 of each year, the department shall submit to the appropriate fiscal and policy committees of the Legislature, and to the Joint Legislative Budget Committee, a revised project delivery plan which shall be the project delivery plan submitted pursuant to subdivision (a) updated to reflect the fund estimate provided the commission pursuant to Section 14524.

SEC. 3. Section 29535.3 is added to the Government Code, to read:

29535.3. Notwithstanding Section 29535, for the County of Monterey, the local transportation commission shall be composed of five members of the board of supervisors and one member appointed by the city council of each incorporated city in the county. An appointed member of the board of supervisors and a city council appointing a member may each designate an alternate member to act in the place of the member so appointed.

SEC. 4. Section 1033.7 of the Public Utilities Code is amended to read:

1033.7. (a) Upon receipt of a written recommendation from the Department of the California Highway Patrol that the certificate of a passenger stage corporation be suspended either (1) for failure to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety, if that failure is either a consistent failure or presents an imminent danger to public safety, or (2) for failure to enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code, the commission shall, pending a hearing in the matter pursuant to subdivision (d), suspend the corporation's certificate. The department's written recommendation shall specifically indicate compliance with subdivision (c).

(b) A corporation whose certificate is suspended pursuant to subdivision (a) may obtain a reinspection of its terminal and vehicles by the department, by submitting a written request for reinstatement to the commission and paying a reinstatement fee of one hundred twenty-five dollars ($125). The commission shall deposit all reinstatement fees collected pursuant to this subdivision

in the Public Utilities Commission Transportation Reimbursement Account. The commission shall forward a request for reinspection to the department which shall perform a reinspection within a reasonable time. The commission shall reinstate a corporation's certificate suspended under subdivision (a) promptly upon receipt of a written recommendation from the department that the corporation's safety compliance has improved to the satisfaction of the department, unless the certificate is suspended for another reason or has been revoked.

(c) Before transmitting a recommendation pursuant to subdivision (a) to the commission, the Department of the California Highway Patrol shall notify the passenger stage corporation in writing of all of the following:

(1) That the department has determined that the corporation's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in a suspension or revocation of the corporation's certificate by the commission.

(3) That the corporation may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. If a review pursuant to this paragraph is requested by the corporation, the department shall conduct and evaluate that review prior to transmitting any notification to the commission pursuant to subdivision (a).

(d) Whenever the commission suspends the certificate of any passenger stage corporation pursuant to subdivision (a), the commission shall furnish the corporation written notice of the suspension and shall hold a hearing within a reasonable time, not to exceed 21 days, after a written request therefor is filed with the commission, with a copy thereof furnished to the Department of the California Highway Patrol. At the hearing, the corporation shall show cause why the suspension should not be continued. At the conclusion of the hearing, the commission may, in addition to any other applicable penalty provided in this part, terminate the suspension, continue the suspension in effect, or revoke the certificate. The commission may revoke the certificate of any passenger stage corporation suspended pursuant to subdivision (a) at any time 90 days or more after its suspension if the commission has not received a written recommendation for reinstatement from the department and the corporation has not filed a written request for a hearing with the commission.

SEC. 4.5. Section 1033.7 of the Public Utilities Code is amended to read:

1033.7. (a) Upon receipt of a written recommendation from the Department of the California Highway Patrol that the certificate of a passenger stage corporation be suspended either (1) for failure to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with

regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety, if that failure is either a consistent failure or presents an imminent danger to public safety, or (2) for failure to enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code, the commission shall, pending a hearing in the matter pursuant to subdivision (d), suspend the corporation's certificate. The department's written recommendation shall specifically indicate compliance with subdivision (c).

(b) A corporation whose certificate is suspended pursuant to subdivision (a) may obtain a reinspection of its terminal and vehicles by the department, by submitting a written request for reinstatement to the commission and paying a reinstatement fee of one hundred twenty-five dollars ($125). The commission shall deposit all reinstatement fees collected pursuant to this subdivision in the Public Utilities Commission Transportation Reimbursement Account. The commission shall forward a request for reinspection to the department which shall perform a reinspection within a reasonable time. The commission shall reinstate a corporation's certificate suspended under subdivision (a) promptly upon receipt of a written recommendation from the department that the corporation's safety compliance has improved to the satisfaction of the department, unless the certificate is suspended for another reason or has been revoked.

(c) Before transmitting a recommendation pursuant to subdivision (a) to the commission, the Department of the California Highway Patrol shall notify the passenger stage corporation in writing of all of the following:

(1) That the department has determined that the corporation's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in a suspension or revocation of the corporation's certificate by the commission.

(3) That the corporation may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. If a review pursuant to this paragraph is requested by the corporation, the department shall conduct and evaluate that review prior to transmitting any notification to the commission pursuant to subdivision (a).

(d) Whenever the commission suspends the certificate of any passenger stage corporation pursuant to subdivision (a), the commission shall furnish the corporation written notice of the suspension and shall hold a hearing within a reasonable time, not to exceed 21 days, after a written request therefor is filed with the commission, with a copy thereof furnished to the Department of the California Highway Patrol. At the hearing, the corporation shall show cause why the suspension should not be continued. At the conclusion of the hearing, the commission may, in addition to any other

applicable penalty provided in this part, terminate the suspension, continue the suspension in effect, or revoke the certificate. The commission may revoke the certificate of any passenger stage corporation suspended pursuant to subdivision (a) at any time 90 days or more after its suspension if the commission has not received a written recommendation for reinstatement from the department and the corporation has not filed a written request for a hearing with the commission.

(e) If the commission, after a hearing, finds that a passenger stage corporation has continued to operate as such after its certificate has been suspended pursuant to subdivision (a), the commission shall do one of the following:

(1) Revoke the certificate of the corporation.

(2) Impose upon the holder of the certificate a civil penalty of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) for each day of unlawful operations.

SEC. 5. Section 1070.5 of the Public Utilities Code is amended to read:

1070.5. (a) Upon receipt of a written recommendation from the Department of the California Highway Patrol that the certificate of a highway common carrier or cement carrier be suspended either: (1) for failure to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety, if that failure is either a consistent failure or presents an imminent danger to public safety, or (2) for failure to enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code, the commission shall, pending a hearing in the matter pursuant to subdivision (d), suspend the carrier's certificate. The department's written recommendation shall specifically indicate compliance with subdivision (c).

(b) A carrier whose certificate is suspended pursuant to subdivision (a) may obtain a reinspection of its terminal and vehicles by the department, by submitting a written request for reinstatement to the commission and paying a reinstatement fee of one hundred twenty-five dollars ($125). The commission shall deposit all reinstatement fees collected pursuant to this subdivision in the Transportation Rate Fund. The commission shall forward a request for reinspection to the department which shall perform a reinspection within a reasonable time. The commission shall reinstate a carrier's certificate suspended under subdivision (a) promptly upon receipt of a written recommendation from the department that the carrier's safety compliance has improved to the satisfaction of the department, unless the certificate is suspended for another reason or has been revoked.

(c) Before transmitting a recommendation pursuant to subdivision (a) to the commission, the Department of the California Highway Patrol shall notify the highway common carrier or cement

carrier in writing of all of the following:

(1) That the department has determined that the carrier's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in a suspension or revocation of the carrier's certificate by the commission.

(3) That the carrier may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. If a review pursuant to this paragraph is requested by the carrier, the department shall conduct and evaluate that review prior to transmitting any notification to the commission pursuant to subdivision (a).

(d) Whenever the commission suspends the certificate of any highway common carrier or cement carrier pursuant to subdivision (a), the commission shall furnish the carrier written notice of the suspension and shall hold a hearing within a reasonable time, not to exceed 21 days, after a written request therefor is filed with the commission, with a copy thereof furnished to the Department of the California Highway Patrol. At the hearing, the carrier shall show cause why the suspension should not be continued. At the conclusion of the hearing, the commission may, in addition to any other applicable penalty provided in this part, terminate the suspension, continue the suspension in effect, or revoke the certificate. The commission may revoke the certificate of any highway common carrier or cement carrier suspended pursuant to subdivision (a) at any time 90 days or more after its suspension if the commission has not received a written recommendation for reinstatement from the department and the carrier has not filed a written request for a hearing with the commission.

SEC. 5.5. Section 1070.5 of the Public Utilities Code is amended to read:

1070.5. (a) Upon receipt of a written recommendation from the Department of the California Highway Patrol that the certificate of a highway common carrier or cement carrier be suspended either: (1) for failure to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety, if that failure is either a consistent failure or presents an imminent danger to public safety, or (2) for failure to enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code, the commission shall, pending a hearing in the matter pursuant to subdivision (d), suspend the carrier's certificate. The department's written recommendation shall specifically indicate compliance with subdivision (c).

(b) A carrier whose certificate is suspended pursuant to subdivision (a) may obtain a reinspection of its terminal and vehicles by the department, by submitting a written request for reinstatement to the commission and paying a reinstatement fee of

one hundred twenty-five dollars ($125). The commission shall deposit all reinstatement fees collected pursuant to this subdivision in the Transportation Rate Fund. The commission shall forward a request for reinspection to the department which shall perform a reinspection within a reasonable time. The commission shall reinstate a carrier's certificate suspended under subdivision (a) promptly upon receipt of a written recommendation from the department that the carrier's safety compliance has improved to the satisfaction of the department, unless the certificate is suspended for another reason or has been revoked.

(c) Before transmitting a recommendation pursuant to subdivision (a) to the commission, the Department of the California Highway Patrol shall notify the highway common carrier or cement carrier in writing of all of the following:

(1) That the department has determined that the carrier's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in a suspension or revocation of the carrier's certificate by the commission.

(3) That the carrier may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. If a review pursuant to this paragraph is requested by the carrier, the department shall conduct and evaluate that review prior to transmitting any notification to the commission pursuant to subdivision (a).

(d) Whenever the commission suspends the certificate of any highway common carrier or cement carrier pursuant to subdivision (a), the commission shall furnish the carrier written notice of the suspension and shall hold a hearing within a reasonable time, not to exceed 21 days, after a written request therefor is filed with the commission, with a copy thereof furnished to the Department of the California Highway Patrol. At the hearing, the carrier shall show cause why the suspension should not be continued. At the conclusion of the hearing, the commission may, in addition to any other applicable penalty provided in this part, terminate the suspension, continue the suspension in effect, or revoke the certificate. The commission may revoke the certificate of any highway common carrier or cement carrier suspended pursuant to subdivision (a) at any time 90 days or more after its suspension if the commission has not received a written recommendation for reinstatement from the department and the carrier has not filed a written request for a hearing with the commission.

(e) If the commission, after a hearing, finds that a highway common carrier or cement carrier has continued to operate as such a carrier after its certificate has been suspended pursuant to subdivision (a), the commission shall do one of the following:

(1) Revoke the certificate of the carrier.

(2) Impose upon the holder of the certificate a civil penalty of not less than one thousand dollars ($1,000) nor more than five thousand

dollars ($5,000) for each day of unlawful operations.

SEC. 6. Section 2892 of the Public Utilities Code is amended to read:

2892. The commission shall, by rule or order, require that every facilities-based cellular service provider provide access for end users on its system to the local emergency telephone services described in Section 53100 of the Government Code, that they shall utilize the "911" code as the primary access number for those services, and that "911" calls from cellular units shall be routed to the nearest appropriate California Highway Patrol communications center. In addition, the commission, by rule or order, shall require that every cellular service provider include in its tariffs a provision to the effect that there shall be no airtime or similar usage charge for calls placed from a cellular unit to the emergency telephone services system.

SEC. 7. Section 3774.5 of the Public Utilities Code is amended to read:

3774.5. (a) Upon receipt of a written recommendation from the Department of the California Highway Patrol that the permit of a highway permit carrier be suspended either (1) for failure to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety, if that failure is either a consistent failure or presents an imminent danger to public safety, or (2) for failure to enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code, the commission shall, pending a hearing in the matter pursuant to subdivision (d), suspend the carrier's permit. The written recommendation shall specifically indicate compliance with subdivision (c).

(b) A carrier whose certificate is suspended pursuant to subdivision (a) may obtain a reinspection of its terminal and vehicles by the department, by submitting a written request for reinstatement to the commission and paying a reinstatement fee of one hundred twenty-five dollars ($125). The commission shall deposit all reinstatement fees collected pursuant to this subdivision in the Transportation Rate Fund. The commission shall forward a request for reinspection to the department which shall perform a reinspection within a reasonable time. The commission shall reinstate a carrier's permit suspended under subdivision (a) promptly upon receipt of a written recommendation from the department that the carrier's safety compliance has improved to the satisfaction of the department, unless the permit is suspended for another reason or has been revoked.

(c) Before transmitting a recommendation pursuant to subdivision (a) to the commission, the Department of the California Highway Patrol shall notify the highway permit carrier in writing of all of the following:

(1) That the department has determined that the carrier's safety record is unsatisfactory, furnishing a copy of any documentation or

summary of any other evidence supporting the determination.

(2) That the determination may result in a suspension or revocation of the carrier's permit by the commission.

(3) That the carrier may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. If a review pursuant to this paragraph is requested by the carrier, the department shall conduct and evaluate that review prior to transmitting any notification to the commission pursuant to subdivision (a).

(d) Whenever the commission suspends the permit of any highway permit carrier pursuant to subdivision (a), the commission shall furnish the carrier written notice of the suspension and shall hold a hearing within a reasonable time, not to exceed 21 days, after a written request therefor is filed with the commission, with a copy thereof furnished to the Department of the California Highway Patrol. At the hearing, the carrier shall show cause why the suspension should not be continued. At the conclusion of the hearing, the commission may, in addition to any other applicable penalty provided in this chapter, terminate the suspension, continue the suspension in effect, or revoke the permit. The commission may revoke the certificate of any highway permit carrier suspended pursuant to subdivision (a) at any time 90 days or more after its suspension if the commission has not received a written recommendation for reinstatement from the department and the carrier has not filed a written request for a hearing with the commission.

SEC. 7.5. Section 3774.5 of the Public Utilities Code is amended to read:

3774.5. (a) Upon receipt of a written recommendation from the Department of the California Highway Patrol that the permit of a highway permit carrier be suspended either (1) for failure to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety, if that failure is either a consistent failure or presents an imminent danger to public safety, or (2) for failure to enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code, the commission shall, pending a hearing in the matter pursuant to subdivision (d), suspend the carrier's permit. The written recommendation shall specifically indicate compliance with subdivision (c).

(b) A carrier whose certificate is suspended pursuant to subdivision (a) may obtain a reinspection of its terminal and vehicles by the department, by submitting a written request for reinstatement to the commission and paying a reinstatement fee of one hundred twenty-five dollars ($125). The commission shall deposit all reinstatement fees collected pursuant to this subdivision in the Transportation Rate Fund. The commission shall forward a request for reinspection to the department which shall perform a

reinspection within a reasonable time. The commission shall reinstate a carrier's permit suspended under subdivision (a) promptly upon receipt of a written recommendation from the department that the carrier's safety compliance has improved to the satisfaction of the department, unless the permit is suspended for another reason or has been revoked.

(c) Before transmitting a recommendation pursuant to subdivision (a) to the commission, the Department of the California Highway Patrol shall notify the highway permit carrier in writing of all of the following:

(1) That the department has determined that the carrier's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in a suspension or revocation of the carrier's permit by the commission.

(3) That the carrier may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. If a review pursuant to this paragraph is requested by the carrier, the department shall conduct and evaluate that review prior to transmitting any notification to the commission pursuant to subdivision (a).

(d) Whenever the commission suspends the permit of any highway permit carrier pursuant to subdivision (a), the commission shall furnish the carrier written notice of the suspension and shall hold a hearing within a reasonable time, not to exceed 21 days, after a written request therefor is filed with the commission, with a copy thereof furnished to the Department of the California Highway Patrol. At the hearing, the carrier shall show cause why the suspension should not be continued. At the conclusion of the hearing, the commission may, in addition to any other applicable penalty provided in this chapter, terminate the suspension, continue the suspension in effect, or revoke the permit. The commission may revoke the certificate of any highway permit carrier suspended pursuant to subdivision (a) at any time 90 days or more after its suspension if the commission has not received a written recommendation for reinstatement from the department and the carrier has not filed a written request for a hearing with the commission.

(e) If the commission, after a hearing, finds that a highway permit carrier has continued to operate as such a carrier after its permit or permits have been suspended pursuant to subdivision (a), the commission shall do one of the following:

(1) Revoke the operating permit or permits of the carrier.

(2) Impose upon the holder of the permit or permits a civil penalty of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) for each day of unlawful operations.

SEC. 8. Section 5285.5 of the Public Utilities Code is amended to read:

5285.5. (a) Upon receipt of a written recommendation from the

Department of the California Highway Patrol that the permit of a household goods carrier be suspended either (1) for failure to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety, if that failure is either a consistent failure or presents an imminent danger to public safety, or (2) for failure to enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code, the commission shall, pending a hearing in the matter pursuant to subdivision (d), suspend the carrier's permit. The written recommendation shall specifically indicate compliance with subdivision (c).

(b) A carrier whose permit is suspended pursuant to subdivision (a) may obtain a reinspection of its terminal and vehicles by the department, by submitting a written request for reinstatement to the commission and paying a reinstatement fee of one hundred twenty-five dollars ($125). The commission shall deposit all reinstatement fees collected pursuant to this subdivision in the Transportation Rate Fund. The commission shall then forward a request for reinspection to the department which shall then perform a reinspection within a reasonable time. The commission shall reinstate a carrier's permit suspended under subdivision (a) promptly upon receipt of a written recommendation from the department that the carrier's safety compliance has improved to the satisfaction of the department, unless the permit is suspended for another reason or has been revoked.

(c) Before transmitting a recommendation pursuant to subdivision (a) to the commission, the Department of the California Highway Patrol shall notify the household goods carrier in writing of all of the following:

(1) That the department has determined that the carrier's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in a suspension or revocation of the carrier's permit by the commission.

(3) That the carrier may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. If a review pursuant to this paragraph is requested by the carrier, the department shall conduct and evaluate that review prior to transmitting any notification to the commission pursuant to subdivision (a).

(d) Whenever the commission suspends the permit of any household goods carrier pursuant to subdivision (a), the commission shall furnish the carrier written notice of the suspension and shall hold a hearing within a reasonable time, not to exceed 21 days, after a written request therefor is filed with the commission, with a copy thereof furnished to the Department of the California Highway Patrol. At the hearing, the carrier shall show cause why the suspension should not be continued. At the conclusion of the hearing,

the commission may, in addition to any other penalty provided in this chapter, terminate the suspension, continue the suspension in effect, or revoke the permit. The commission may revoke the permit of any household goods carrier suspended pursuant to subdivision (a) at any time 90 days or more after its suspension if the commission has not received a written recommendation for reinstatement from the department and the corporation has not filed a written request for a hearing with the commission.

SEC. 8.5. Section 5285.5 of the Public Utilities Code is amended to read:

5285.5. (a) Upon receipt of a written recommendation from the Department of the California Highway Patrol that the permit of a household goods carrier be suspended either (1) for failure to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety, if that failure is either a consistent failure or presents an imminent danger to public safety, or (2) for failure to enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code, the commission shall, pending a hearing in the matter pursuant to subdivision (d), suspend the carrier's permit. The written recommendation shall specifically indicate compliance with subdivision (c).

(b) A carrier whose permit is suspended pursuant to subdivision (a) may obtain a reinspection of its terminal and vehicles by the department, by submitting a written request for reinstatement to the commission and paying a reinstatement fee of one hundred twenty-five dollars ($125). The commission shall deposit all reinstatement fees collected pursuant to this subdivision in the Transportation Rate Fund. The commission shall then forward a request for reinspection to the department which shall then perform a reinspection within a reasonable time. The commission shall reinstate a carrier's permit suspended under subdivision (a) promptly upon receipt of a written recommendation from the department that the carrier's safety compliance has improved to the satisfaction of the department, unless the permit is suspended for another reason or has been revoked.

(c) Before transmitting a recommendation pursuant to subdivision (a) to the commission, the Department of the California Highway Patrol shall notify the household goods carrier in writing of all of the following:

(1) That the department has determined that the carrier's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in a suspension or revocation of the carrier's permit by the commission.

(3) That the carrier may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. If a review pursuant to this paragraph is

requested by the carrier, the department shall conduct and evaluate that review prior to transmitting any notification to the commission pursuant to subdivision (a).

(d) Whenever the commission suspends the permit of any household goods carrier pursuant to subdivision (a), the commission shall furnish the carrier written notice of the suspension and shall hold a hearing within a reasonable time, not to exceed 21 days, after a written request therefor is filed with the commission, with a copy thereof furnished to the Department of the California Highway Patrol. At the hearing, the carrier shall show cause why the suspension should not be continued. At the conclusion of the hearing, the commission may, in addition to any other penalty provided in this chapter, terminate the suspension, continue the suspension in effect, or revoke the permit. The commission may revoke the permit of any household goods carrier suspended pursuant to subdivision (a) at any time 90 days or more after its suspension if the commission has not received a written recommendation for reinstatement from the department and the corporation has not filed a written request for a hearing with the commission.

(e) If the commission, after a hearing, finds that a household goods carrier has continued to operate as such a carrier after its permit or permits have been suspended pursuant to subdivision (a), the commission shall do one of the following:

(1) Revoke the operating permit or permits of the carrier.

(2) Impose upon the holder of the permit or permits a civil penalty of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) for each day of unlawful operations.

SEC. 9. Section 5378.5 of the Public Utilities Code is amended to read:

5378.5. (a) Upon receipt of a written recommendation from the Department of the California Highway Patrol that the certificate or permit of a charter-party carrier be suspended either (1) for failure to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety if that failure is either a consistent failure or presents an imminent danger to public safety, or (2) for failure to enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code, the commission shall, pending a hearing in the matter pursuant to subdivision (d), suspend the carrier's certificate or permit. The written recommendation shall specifically indicate compliance with subdivision (c).

(b) A carrier whose certificate or permit is suspended pursuant to subdivision (a) may obtain a reinspection of its terminal and vehicles by the department, by submitting a written request for reinstatement to the commission and paying a reinstatement fee of one hundred twenty-five dollars ($125). The commission shall deposit all reinstatement fees collected pursuant to this subdivision in the Public Utilities Commission Transportation Reimbursement

Account. The commission shall then forward a request for reinspection to the department which shall then perform a reinspection within a reasonable time. The commission shall reinstate a carrier's certificate or permit suspended under subdivision (a) promptly upon receipt of a written recommendation from the department that the carrier's safety compliance has improved to the satisfaction of the department, unless the certificate or permit is suspended for another reason, or has been revoked.

(c) Before transmitting a recommendation pursuant to subdivision (a) to the commission, the Department of the California Highway Patrol shall notify the charter-party carrier in writing of all of the following:

(1) That the department has determined that the carrier's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in suspension or revocation of the carrier's certificate or permit by the commission.

(3) That the carrier may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. If a review pursuant to this paragraph is requested by the carrier, the department shall conduct and evaluate that review prior to transmitting any notification to the commission pursuant to subdivision (a).

(d) Whenever the commission suspends the certificate or permit of any charter-party carrier pursuant to subdivision (a), the commission shall furnish the carrier written notice of the suspension and shall hold a hearing within a reasonable time, not to exceed 21 days, after a written request therefor is filed with the commission, with a copy thereof furnished to the Department of the California Highway Patrol. At the hearing, the carrier shall show cause why the suspension should not be continued. At the conclusion of the hearing, the commission may, in addition to any other penalty provided in this chapter, terminate the suspension, continue the suspension in effect, or revoke the certificate or permit. The commission may revoke the certificate or permit of any carrier suspended pursuant to subdivision (a) at any time 90 days or more after its suspension if the commission has not received a written recommendation for reinstatement from the department and the carrier has not filed a written request for a hearing with the commission.

SEC. 9.5. Section 5378.5 of the Public Utilities Code is amended to read:

5378.5. (a) Upon receipt of a written recommendation from the Department of the California Highway Patrol that the certificate or permit of a charter-party carrier be suspended either (1) for failure to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety if that failure is either a consistent failure or presents an imminent danger to public safety,

or (2) for failure to enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code, the commission shall, pending a hearing in the matter pursuant to subdivision (d), suspend the carrier's certificate or permit. The written recommendation shall specifically indicate compliance with subdivision (c).

(b) A carrier whose certificate or permit is suspended pursuant to subdivision (a) may obtain a reinspection of its terminal and vehicles by the department, by submitting a written request for reinstatement to the commission and paying a reinstatement fee of one hundred twenty-five dollars ($125). The commission shall deposit all reinstatement fees collected pursuant to this subdivision in the Public Utilities Commission Transportation Reimbursement Account. The commission shall then forward a request for reinspection to the department which shall then perform a reinspection within a reasonable time. The commission shall reinstate a carrier's certificate or permit suspended under subdivision (a) promptly upon receipt of a written recommendation from the department that the carrier's safety compliance has improved to the satisfaction of the department, unless the certificate or permit is suspended for another reason, or has been revoked.

(c) Before transmitting a recommendation pursuant to subdivision (a) to the commission, the Department of the California Highway Patrol shall notify the charter-party carrier in writing of all of the following:

(1) That the department has determined that the carrier's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in suspension or revocation of the carrier's certificate or permit by the commission.

(3) That the carrier may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. If a review pursuant to this paragraph is requested by the carrier, the department shall conduct and evaluate that review prior to transmitting any notification to the commission pursuant to subdivision (a).

(d) Whenever the commission suspends the certificate or permit of any charter-party carrier pursuant to subdivision (a), the commission shall furnish the carrier written notice of the suspension and shall hold a hearing within a reasonable time, not to exceed 21 days, after a written request therefor is filed with the commission, with a copy thereof furnished to the Department of the California Highway Patrol. At the hearing, the carrier shall show cause why the suspension should not be continued. At the conclusion of the hearing, the commission may, in addition to any other penalty provided in this chapter, terminate the suspension, continue the suspension in effect, or revoke the certificate or permit. The commission may revoke the certificate or permit of any carrier suspended pursuant to subdivision (a) at any time 90 days or more after its suspension if the commission has not received a written recommendation for

reinstatement from the department and the carrier has not filed a written request for a hearing with the commission.

(e) If the commission, after a hearing, finds that a charter-party carrier has continued to operate as such a carrier after its certificate or permit has been suspended pursuant to subdivision (a), the commission shall do one of the following:

(1) Revoke the operating certificate or permit of the carrier.

(2) Impose upon the holder of the certificate or permit a civil penalty of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) for each day of unlawful operations.

SEC. 10. Section 5378.6 of the Public Utilities Code is amended to read:

5378.6. (a) Upon receipt of a written recommendation from the Department of the California Highway Patrol that a new or renewal application for a charter-party carrier certificate or permit be denied either (1) for failure to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety or (2) for failure to enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code, the commission shall deny the application. The department's written recommendation shall specifically indicate compliance with subdivision (b).

(b) Before transmitting a recommendation pursuant to subdivision (a) to the commission, the Department of the California Highway Patrol shall notify the applicant for the charter-party carrier certificate or permit of all of the following in writing:

(1) That the department has determined that the applicant's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in a denial of the applicant's certificate or permit by the commission.

(3) That the applicant may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. The department shall, upon request, conduct and evaluate that review prior to transmitting any notification to the commission pursuant to subdivision (a).

(c) Whenever the commission denies an application for renewal pursuant to subdivision (a), the commission shall furnish the charter-party carrier written notice of the denial and shall hold a hearing within a reasonable time, not to exceed 21 days, after a written request is filed with the commission, with a copy thereof furnished to the Department of the California Highway Patrol. At the hearing, the carrier shall show cause why the denial was improper or unwarranted. At the conclusion of the hearing, the commission may, in addition to any other remedy provided in this part, reverse the denial, or sustain the denial.

(d) Any applicant for a charter-party carrier certificate or permit

denied pursuant to subdivision (a), whose denial has not been reversed as a result of the hearing provided for in subdivision (c), that wishes to obtain a certificate or permit shall reapply for the desired authority.

SEC. 11. The heading of Article 2 (commencing with Section 70) of Chapter 1 of Division 1 of the Streets and Highways Code is amended to read:

Article 2. California Transportation Commission

SEC. 12. Section 506 of the Streets and Highways Code is repealed.

SEC. 13. Section 286 of the Vehicle Code, as amended by Chapter 13 of the Statutes of 1991, is amended to read:

286. The term "dealer" does not include:

(a) Insurance companies, banks, finance companies, public officials, or any other person coming into possession of vehicles in the regular course of business, who sells vehicles under a contractual right or obligation, or in performance of an official duty, or in authority of any court of law, if the sale is for the purpose of saving the seller from loss or pursuant to the authority of a court of competent jurisdiction.

(b) Persons who sell or distribute vehicles of a type subject to registration for a manufacturer to vehicle dealers licensed under this code, or who are employed by manufacturers or distributors to promote the sale of vehicles dealt in by those manufacturers or distributors. However, if any of those persons also sell vehicles at retail, they shall be deemed to be vehicle dealers and are subject to this code.

(c) Persons regularly employed as salespersons by vehicle dealers licensed under this code while acting within the scope of that employment.

(d) Persons engaged exclusively in the bona fide business of exporting vehicles or of soliciting orders for the sale and delivery of vehicles outside the territorial limits of the United States, if no federal excise tax is legally payable or refundable on any of the transactions. Persons not engaged exclusively in the bona fide business of exporting vehicles, but who are engaged in the business of soliciting orders for the sale and delivery of vehicles, outside the territorial limits of the United States shall be exempt from licensure as dealers only if their sales of the vehicles produces less than 10 percent of their total gross revenue from all business transacted.

(e) Persons not engaged in the purchase or sale of vehicles as a business, who dispose of any vehicle acquired and used in good faith, for their own personal use, or for use in their business, and not for the purpose of avoiding the provisions of this code.

(f) Persons who are engaged in the purchase, sale, or exchange of vehicles, other than motorcycles subject to identification under this code, which are not intended for use on the highways.

(g) Persons temporarily retained as auctioneers solely for the purpose of disposing of vehicle stock inventories by means of public auction on behalf of the owners at the owners' place of business, or as otherwise approved by the department, if intermediate physical possession or control of, or an ownership interest in the inventory is not conveyed to the persons so retained.

(h) Persons who are engaged exclusively in the business of purchasing, selling, servicing, or exchanging racing vehicles, parts for racing vehicles, and trailers designed and intended by the manufacturer to be used exclusively for carrying racing vehicles. For purposes of this subdivision, "racing vehicle" means a motor vehicle of a type used exclusively in a contest of speed or in a competitive trial of speed which is not intended for use on the highways.

(i) Any person who is a "lessor" as defined in Section 372.

(j) Any person who is a "renter" as defined in Section 508.

(k) Any "salvage pool" as defined in Section 543.

(*l*) Any yacht broker who is subject to the Yacht and Ship Brokers Act (Article 2 (commencing with Section 700) of Chapter 5 of Division 3 of the Harbors and Navigation Code) and who sells used boat trailers in conjunction with the sale of a vessel.

(m) Any licensed "automobile dismantler" as defined in Section 220 who sells vehicles that have been reported for dismantling as provided in Section 11520.

(n) The Director of Corrections when selling vehicles pursuant to Section 2813.5 of the Penal Code.

SEC. 14. Section 405 of the Vehicle Code is amended to read:

405. A "motor-driven cycle" is any motorcycle with a motor which displaces less than 150 cubic centimeters, and every bicycle with motor attached. A motor-driven cycle does not include a motorized bicycle, as defined in Section 406.

SEC. 15. Section 471 of the Vehicle Code, as added by Chapter 13 of the Statutes of 1991, is amended to read:

471. A "pickup truck" is a motor truck with a manufacturer's gross vehicle weight rating of less than 10,101 pounds, an unladen weight of less than 6,001 pounds, and which is equipped with an open box-type bed less than 9 feet in length.

SEC. 16. Section 1804 of the Vehicle Code, as amended by Section 2 of Chapter 1360 of the Statutes of 1990, is amended to read:

1804. (a) The abstract shall be made upon a form furnished or approved by the department and shall contain all necessary information to identify the defendant, including, but not limited to, the person's driver's license number, name, and date of birth, the date and nature of the offense, the vessel number, if any, of the vessel involved in the offense, the license plate number of the vehicle involved in the offense, the date of hearing, and the judgment. The abstract shall also indicate whether the vehicle involved in the offense is a commercial motor vehicle, as defined in subdivision (b) of Section 15210, whether the vehicle was of a type requiring the driver to have a certificate issued pursuant to Section 2512, 12517,

12519, 12523, or 12523.5 or any endorsement issued pursuant to paragraph (2) or (4) of subdivision (a) of Section 15278, and whether the vehicle was transporting hazardous material at the time of the offense, or whether the vessel involved in the offense was a recreational vessel, as defined in subdivision (y) of Section 651 of the Harbors and Navigation Code.

(b) As to any abstract for which the original arrest and final conviction was for a violation of subdivision (b), (c), (d), (e), or (f) of Section 655 of the Harbors and Navigation Code or Section 23152 or 23153 of this code, the abstract shall contain a statement indicating the percentage of alcohol, by weight, in the person's blood whenever that percentage was determined by a chemical test. The information regarding the chemical test shall be compiled if it is available to the clerk of the court. All information required to be compiled pursuant to this subdivision shall be kept confidential in the records of the department pursuant to Section 1808.5. The department may use the information for research and statistical purposes and for determining the eligibility of any person to operate a motor vehicle on the highways of this state. The information shall not be released to any other public or private agency, except for research and statistical summary purposes and, for those purposes, the name and address of the person and any other identifying information shall not be disclosed.

(c) The Legislature finds and declares that blood-alcohol percentages have valuable research potential in providing statistical summary information on impaired drivers but that a specific blood-alcohol percentage is only an item of evidence for purposes of criminal and licensing sanctions imposed by law. The Legislature recognizes that the accuracy of the determination of a specific blood-alcohol percentage is not the critical determination in a conviction for driving under the influence of an alcoholic beverage if the blood-alcohol percentage exceeds the statutory amount.

(d) This section shall become operative on January 1, 1992.

SEC. 17. Section 1808.1 of the Vehicle Code is amended to read:

1808.1. (a) The prospective employer of a driver who drives a vehicle requiring a class 1, class 2, class A, or class B driver's license, or a class C license with an endorsement issued pursuant to paragraph (4) of subdivision (a) of Section 15278 or a certificate issued pursuant to Section 2512, 12517, 12519, 12523, or 12523.5, shall obtain a report showing the driver's current public record as recorded by the department. For purposes of this subdivision, a report is current if it was issued less than 30 days prior to the date the employer employs the driver. The report shall be reviewed, signed, and dated by the employer and maintained at the employer's place of business until receipt of the pull notice system report pursuant to subdivisions (b) and (c). These reports shall be presented upon request to any authorized member of the California Highway Patrol during regular business hours.

(b) The employer of a driver who drives a vehicle requiring a

class 1, class 2, class A, or class B driver's license, class C license with an endorsement issued pursuant to paragraph (4) of subdivision (a) of Section 15278, or a certificate issued pursuant to Section 2512, 12517, 12519, 12523, or 12523.5, shall make a request to the department to participate in a pull notice system, which is a process for the purpose of providing the employer with a report showing the driver's current public record as recorded by the department, and any subsequent convictions, failures to appear, accidents, driver's license suspensions, driver's license revocations, or any other actions taken against the driving privilege or certificate, added to the driver's record while the employer's notification request remains valid and uncanceled.

(c) The employer of a driver of a vehicle requiring a class 1 or class 2 driver's license, or a class 3 driver's license requiring a certificate issued pursuant to Section 2512, 12517, 12519, 12523, or 12523.5 or a class A or class B driver's license, or a class C driver's license with a hazardous material endorsement, shall, additionally, obtain a periodic report from the department at least every six months, except that an employer who enrolls more than 500 drivers in the pull notice system under a single requester code shall obtain a report at least every 12 months. The employer shall verify that each employee's driver's license has not been suspended or revoked, the employee's traffic violation point count, and whether the employee has been convicted of a violation of Section 23152 or 23153. The report shall be signed and dated by the employer and maintained at the employer's principal place of business. The reports shall be presented upon demand to any authorized representative of the Department of the California Highway Patrol during regular business hours.

(d) Upon the termination of a driver's employment, the employer may notify the department to cancel any reports required by this section.

(e) For the purposes of the pull notice system and periodic report process required by subdivisions (b) and (c), owners, other than owner-operators as defined in Section 3557 of the Public Utilities Code, and employers who drive vehicles described in subdivisions (b) and (c), shall be enrolled as if they were employees. Family members and volunteer drivers who drive vehicles described in subdivisions (b) and (c) shall also be enrolled as if they were employees.

(f) An employer who, after receiving any driving record pursuant to this section, employs or continues to employ as a driver any person against whom a disqualifying action has been taken regarding his or her driving privilege or required driver's certificate, is guilty of a public offense, and upon conviction thereof, shall be punished by imprisonment in the county jail for not more than six months, by a fine of not more than one thousand dollars ($1,000), or by both that fine and imprisonment.

(g) As part of its inspection of bus maintenance facilities and

terminals required at least once every 13 months pursuant to subdivision (c) of Section 34501, the Department of the California Highway Patrol shall determine whether each transit operator, as defined in Section 99210 of the Public Utilities Code, is then in compliance with this section and Section 12804.6, and shall certify each operator found to be in compliance. No funds shall be allocated under Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code to a transit operator which the Department of the California Highway Patrol has not certified under this section.

(h) A request to participate in the pull notice system established by this section shall be accompanied by a fee determined by the department to be sufficient to defray the entire actual cost to the department for the notification service. For the receipt of subsequent reports, the employer shall also be charged a fee established by the department pursuant to Section 1811. Any employer who qualifies under Section 1812 shall be exempt from any fee required under this section. Failure to pay the fee shall result in automatic cancellation of the employer's participation in the notification services.

(i) The department, as soon as feasible, may establish an automatic procedure to provide the periodic reports in subdivision (c) to employers on a regular basis without the need for individual requests.

(j) This section shall not be construed to change the definition of "employer," "employee," or "independent contractor" for any other purpose.

(k) The employer of a driver who is employed as a casual driver is not required to enter that driver's name in the pull notice system, as otherwise required by subdivision (a). However, the employer of a casual driver shall be in possession of a report of the driver's current public record as recorded by the department, prior to allowing a casual driver to drive a vehicle requiring a class 1, class 2, class A, class B or class C driver's license with a hazardous materials endorsement, or a certificate issued pursuant to Section 2512, 12517, 12519, 12523, or 12523.5. A report is current if it was issued less than six months prior to the date the employer employs the driver. As used in this subdivision, a driver is employed as a casual driver when the employer has employed the driver less than 30 days during the preceding six months. For purposes of this subdivision, "casual driver" does not include any driver who operates a vehicle that requires a passenger transportation endorsement.

SEC. 17.5. Section 2402.6 of the Vehicle Code is amended to read:

2402.6. (a) The commissioner may adopt and enforce regulations and standards with respect to fuel containers and fuel systems on vehicles using compressed or liquefied natural gas and liquefied petroleum gas used in conjunction with a propulsion system certified by the State Air Resources Board as producing as few or fewer emissions as a State Air Resources Board approved system

using compressed or liquefied natural gas or liquefied petroleum gas and with respect to the operation of vehicles using any of those fuels to ensure the safety of the equipment and vehicles and of persons and property using the highways.

(b) It is an infraction for any person to operate any motor vehicle in violation of any provision of a regulation adopted pursuant to this section.

(c) The operator of every facility for filling portable liquefied natural gas or liquefied petroleum gas containers having a capacity of four pounds or more but not more than 200 pounds of gas shall post in a conspicuous place the regulations applicable to that filling procedure.

SEC. 18. Section 11728 of the Vehicle Code is amended to read:

11728. As part of a compromise settlement agreement entered into pursuant to Section 11707 or 11808.5, the department may assess a monetary penalty of not more than two thousand five hundred dollars ($2,500) per violation and impose a license suspension of not more than 30 days for any dealer who violates subdivision (r) of Section 11713. The extent of the penalties shall be based on the nature of the violation and effect of the violation on the purposes of this article. Except for the penalty limits provided for in Sections 11707 and 11808.5, all the provisions governing compromise settlement agreements for dealers, salesmen, and wholesalers apply to this section.

SEC. 18.5. Section 12800 of the Vehicle Code, as amended by Chapter 90 of the Statutes of 1991, is amended to read:

12800. Every application for an original or a renewal of, a driver's license shall contain all of the following information:

(a) The applicant's true full name, age, sex, mailing address, residence address, and social security number.

(b) A brief description of the applicant for the purpose of identification.

(c) A legible print of the thumb or finger of the applicant.

(d) The type of motor vehicle or combination of vehicles the applicant desires to operate.

(e) Whether the applicant has ever previously been licensed as a driver and, if so, when and in what state or country and whether or not the license has been suspended or revoked and, if so, the date of and reason for the suspension or revocation.

(f) Whether the applicant has ever previously been refused a driver's license in this state and, if so, the date of and the reason for the refusal.

(g) Whether the applicant, within the last three years, has experienced, on one or more occasions, either a lapse of consciousness or an episode of marked confusion caused by any condition which may bring about recurrent lapses, or whether the applicant has any disease, disorder, or disability which affects ability to exercise reasonable and ordinary control in operating a motor vehicle upon a highway.

(h) Whether the applicant understands traffic signs and signals.

(i) Whether the applicant has ever previously been issued an identification card by the department.

(j) Any other information necessary to enable the department to determine whether the applicant is entitled to a license under this code.

SEC. 19. Section 12804.9 of the Vehicle Code, as amended by Section 31.5 of Chapter 1360 of the Statutes of 1990, is amended to read:

12804.9. (a) (1) The examination shall include all of the following:

(A) A test of the applicant's knowledge and understanding of the provisions of this code governing the operation of vehicles upon the highways.

(B) A test of the applicant's ability to read and understand simple English used in highway traffic and directional signs.

(C) A test of the applicant's understanding of traffic signs and signals, including the bikeway signs, markers, and traffic control devices established by the Department of Transportation.

(D) An actual demonstration of the applicant's ability to exercise ordinary and reasonable control in operating a motor vehicle by driving it under the supervision of an examining officer. The applicant shall submit to an examination appropriate to the type of motor vehicle or combination of vehicles he or she desires a license to drive, except that the department may waive the driving test part of the examination of any applicant who holds a valid license issued by another state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico. The examining officer may request to see evidence of financial responsibility for the vehicle prior to supervising the demonstration of the applicant's ability to operate the vehicle. The examining officer may refuse to examine an applicant who is unable to provide proof of financial responsibility for the vehicle, unless proof of financial responsibility is not required by this code.

(E) A test of the hearing and eyesight of the applicant, and of other matters that may be necessary to determine the applicant's mental and physical fitness to operate a motor vehicle upon the highways, and whether any ground exists for refusal of a license under this code.

(2) The examination for a class A or class B license under subdivision (b) shall also include a report of a medical examination of the applicant given not more than two years prior to the date of the application by a physician licensed to practice medicine or by a licensed physician's assistant or nurse practitioner under the supervision of a physician and surgeon licensed to practice medicine. The report shall be on a form approved by the department, the Federal Highway Administration, or the Federal Aviation Administration. In establishing the requirements, consideration may be given to the standards presently required of motor carrier drivers

by the Federal Highway Administration.

(3) Any physical defect of the applicant, which, in the opinion of the department, is compensated for to ensure safe driving ability, shall not prevent the issuance of a license to the applicant.

(b) Beginning on January 1, 1989, in accordance with the following classifications, any applicant for a driver's license shall be required to submit to an examination appropriate to the type of motor vehicle or combination of vehicles the applicant desires a license to drive:

(1) Class A includes the following:

(A) Any combination of vehicles, if any vehicle being towed has a gross vehicle weight rating of more than 10,000 pounds.

(B) Any vehicle towing more than one vehicle.

(C) Any trailer bus.

(D) The operation of all vehicles under class B and class C.

(2) Class B includes the following:

(A) Any single vehicle with a gross vehicle weight rating of more than 26,000 pounds.

(B) Any single vehicle with three or more axles, except any three-axle vehicle weighing less than 6,000 pounds.

(C) Any bus except a trailer bus.

(D) Any farm labor vehicle.

(E) Any single vehicle with three or more axles or a gross vehicle weight rating of more than 26,000 pounds towing another vehicle with a gross vehicle weight rating of 10,000 pounds or less.

(F) The operation of all vehicles covered under class C.

(3) Class C includes the following:

(A) Any two-axle vehicle with a gross vehicle weight rating of 26,000 pounds or less, including when the vehicle is towing a trailer or semitrailer with a gross vehicle weight rating of 10,000 pounds or less.

(B) Notwithstanding subparagraph (A), any two-axle vehicle weighing 4,000 pounds or more unladen when towing a trailer coach not exceeding 9,000 pounds gross.

(C) Any housecar.

(D) Any three-axle vehicle weighing 6,000 pounds or less gross.

(E) Any housecar or vehicle towing another vehicle with a gross vehicle weight rating of 10,000 pounds or less, including when a tow dolly is used. No vehicle shall tow another vehicle in violation of Section 21715.

(F) (i) Any two-axle vehicle weighing 4,000 pounds or more unladen when towing either a trailer coach or a fifth-wheel travel trailer not exceeding 10,000 pounds gross vehicle weight rating, when the towing of the trailer is not for compensation.

(ii) Any two-axle vehicle weighing 4,000 pounds or more unladen when towing a fifth-wheel travel trailer exceeding 10,000 pounds, but not exceeding 15,000 pounds, gross vehicle weight rating, when the towing of the trailer is not for compensation, and if the person has passed a specialized written examination provided by the

department relating to the knowledge of this code and other safety aspects governing the towing of recreational vehicles upon the highway. The authority to operate combinations of vehicles under this subparagraph shall be granted by endorsement on a class C license upon completion of that written examination.

(G) Class C does not include any two-wheel motorcycle or any two-wheel motor-driven cycle.

(4) Class M1. Any two-wheel motorcycle. Authority to operate vehicles included in a class M1 license may be granted by endorsement on a class A, B, or C license upon completion of an appropriate examination.

(5) Class M2. Any two-wheel motor-driven cycle, including, but not limited to, a motorized bicycle or moped, or any bicycle with an attached motor. Authority to operate vehicles included in Class M2 may be granted by endorsement on a class A, B, or C license upon completion of an appropriate examination. Persons holding a class M1 license or endorsement may operate vehicles included in class M2 without further examination.

(c) No driver's license or driver certificate shall be valid for operating any commercial motor vehicle, as defined in subdivision (b) of Section 15210, any other motor vehicle defined in paragraph (1) or (2) of subdivision (b), or any other vehicle requiring a driver to hold any driver certificate or any driver's license endorsement under Section 15275, unless a medical certificate approved by the department, the Federal Highway Administration, or the Federal Aviation Administration, which has been issued within two years of the date of the operation of that vehicle, is within the licensee's immediate possession, and a copy of the medical examination report from which the certificate was issued is on file with the department. Otherwise the license shall be valid only for operating class C vehicles which are not commercial vehicles, as defined in subdivision (b) of Section 15210, and for operating class M1 or M2 vehicles, if so endorsed, which are not commercial vehicles, as defined in subdivision (b) of Section 15210.

(d) A license or driver certificate issued prior to the enactment of Chapter 7 (commencing with Section 15200) shall be valid to operate the class or type of vehicles specified under the law in existence prior to that enactment until the license or certificate expires or is otherwise suspended, revoked, or canceled.

(e) The department may accept a certificate of driving skill that is issued by an employer, authorized by the department to issue a certificate under Section 15250, of the applicant, in lieu of a driving test, on class A or B applications, if the applicant has first qualified for a class C license and has met the other examination requirements for the license for which he or she is applying. The certificate may be submitted as evidence of the applicant's skill in the operation of the types of equipment covered by the license for which he or she is applying.

(f) The department may accept a certificate of competence in

lieu of a driving test on class M1 or M2 applications, when the certificate is issued by a law enforcement agency for its officers who operate class M1 or M2 vehicles in their duties, if the applicant has met the other examination requirements for the license for which he or she is applying.

(g) (1) Notwithstanding subdivision (b), until December 31, 1993, any person holding a valid California driver's license of any class may operate a motorized bicycle without taking any special examination for the operation of a motorized bicycle, and without having a class M1 or M2 endorsement on that license.

(2) Notwithstanding subdivision (b), any person holding a valid California driver's license of any class may operate a short-term rental motorized bicycle without taking any special examination for the operation of a motorized bicycle, and without having a class M2 endorsement on that license. As used in this paragraph, "short-term" means 48 hours or less.

(h) No person under the age of 21 years shall be issued a class M1 or M2 license or endorsement unless he or she provides evidence satisfactory to the department of completion of a motorcycle safety training program that is operated pursuant to Article 2 (commencing with Section 2930) of Chapter 5 of Division 2.

(i) Drivers of vanpool vehicles, may operate with class C licenses, but shall possess evidence of a medical examination required for a class B license when operating vanpool vehicles. In order to be eligible to drive the vanpool vehicle, the driver shall keep in the vanpool vehicle a statement, signed under penalty of perjury, that he or she has not been convicted of reckless driving, drunk driving, or a hit and run offense in the last five years.

(j) During the implementation of this section, from January 1, 1989, through December 31, 1992, provisions of this code pertaining to persons holding class 1, 2, 3, or 4 licenses pursuant to Section 12804, shall apply to persons holding class A, B, C, M1, or M2 licenses pursuant to this section, to the extent that class A, B, C, M1, or M2 vehicles under this section fall within the definition of class 1, 2, 3, or 4 vehicles under Section 12804.

(k) A class M license issued between January 1, 1989, and December 31, 1992, shall permit the holder to operate any motorcycle, motor-driven cycle, or motorized bicycle until the expiration of the license.

(*l*) The amendments made to paragraph (2) of subdivision (a) by Chapter 1270 of the Statutes of 1989 shall become operative only after federal regulations are adopted which permit physician's assistants and nurse practitioners to complete the physicals described in that paragraph.

(m) This section shall remain in effect only until January 1, 1994, and on that date is repealed, unless a later enacted statute, which is enacted before January 1, 1994, deletes or extends that date.

SEC. 20. Section 12810.5 of the Vehicle Code is amended to read:

12810.5. (a) Except as otherwise provided in subdivision (b), any

person whose driving record shows a violation point count of four or more points in 12 months, six or more points in 24 months, or eight or more points in 36 months shall be prima facie presumed to be a negligent operator of a motor vehicle. In applying this subdivision to a driver, if the person requests and appears at a hearing conducted by the department, the department shall give due consideration to the amount of use or mileage traveled in the operation of a motor vehicle.

(b) (1) Any class 1, class 2, class A, or class B licensed driver, except persons holding certificates pursuant to Section 2512, 12517, 12519, 12519.5, 12523, or 12523.5, or an endorsement issued pursuant to paragraph (2) or (4) of subdivision (a) of Section 15278, who is presumed to be a negligent operator pursuant to subdivision (a), and who requests and appears at a hearing and is found to have a driving record violation point count of six or more points in 12 months, eight or more points in 24 months, or 10 or more points in 36 months is presumed to be a prima facie negligent operator. However, the higher point count shall not apply if the department reasonably determines that four or more points in 12 months, six or more points in 24 months, or eight or more points in 36 months are attributable to the driver's operation of a vehicle requiring only a class 3 or class C license, and not requiring a certificate or endorsement, or a class 4 or class M license.

(2) For purposes of this subdivision, each point assigned pursuant to Section 12810 shall be valued at one and one-half times the value otherwise required by that section for each violation reasonably determined by the department to be attributable to the driver's operation of a vehicle requiring a class 1 or class 2 or class A or class B license, or requiring any certificate or endorsement described in this section.

(c) The department may require a negligent operator whose driving privilege is suspended or revoked pursuant to this section to submit proof of financial responsibility as defined in Section 16430. The proof of financial responsibility shall be filed on or before the date of reinstatement following the suspension or revocation. The proof of financial responsibility shall be maintained with the department for three years following that date of reinstatement.

(d) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute which is enacted before January 1, 1993, deletes or extends that date.

SEC. 21. Section 12810.5 is added to the Vehicle Code, to read:

12810.5. (a) Except as otherwise provided in subdivision (b), any person whose driving record shows a violation point count of four or more points in 12 months, six or more points in 24 months, or eight or more points in 36 months shall be prima facie presumed to be a negligent operator of a motor vehicle. In applying this subdivision to a driver, if the person requests and appears at a hearing conducted by the department, the department shall give due consideration to the amount of use or mileage traveled in the operation of a motor

vehicle.

(b) (1) Any class 1, class 2, class A, or class B licensed driver, except persons holding certificates pursuant to Section 2512, 12517, 12519, 12523, or 12523.5, or an endorsement issued pursuant to paragraph (2) or (4) of subdivision (a) of Section 15278, who is presumed to be a negligent operator pursuant to subdivision (a), and who requests and appears at a hearing and is found to have a driving record violation point count of six or more points in 12 months, eight or more points in 24 months, or 10 or more points in 36 months is presumed to be a prima facie negligent operator. However, the higher point count shall not apply if the department reasonably determines that four or more points in 12 months, six or more points in 24 months, or eight or more points in 36 months are attributable to the driver's operation of a vehicle requiring only a class 3 or class C license, and not requiring a certificate or endorsement, or a class 4 or class M license.

(2) For purposes of this subdivision, each point assigned pursuant to Section 12810 shall be valued at one and one-half times the value otherwise required by that section for each violation reasonably determined by the department to be attributable to the driver's operation of a vehicle requiring a class 1 or class 2 or class A or class B license, or requiring any certificate or endorsement described in this section.

(c) The department may require a negligent operator whose driving privilege is suspended or revoked pursuant to this section to submit proof of financial responsibility, as defined in Section 16430, on or before the date of reinstatement following the suspension or revocation. The proof of financial responsibility shall be maintained with the department for three years following that date of reinstatement.

(d) This section shall become operative on January 1, 1993.

SEC. 22. Section 12811 of the Vehicle Code is amended to read:

12811. (a) When the department determines that the applicant is lawfully entitled to a license, it shall issue to the person a driver's license as applied for. The license shall state the class of license for which the licensee has qualified and shall contain the distinguishing number assigned to the applicant, the date of expiration, the name, age, and mailing address of the licensee, a brief description and engraved picture or photograph of the licensee for the purpose of identification, and space for the signature of the licensee.

Each license shall also contain a space for the endorsement of a record of each suspension or revocation thereof.

The department shall use whatever process or processes, in the issuance of engraved or colored licenses, that prohibit, as near as possible, the ability to alter or reproduce the license, or prohibit the ability to superimpose a picture or photograph on the license without ready detection.

(b) The department shall provide a form which may be carried with the license by which the licensee may indicate his or her

willingness and intent to make an anatomical gift or his or her refusal to make an anatomical gift pursuant to Section 7150.5 of the Health and Safety Code and the date that a pacemaker has been implanted. The form provided shall contain a statement sufficient in its terms to meet the requirements of the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code). To be effective, the statement shall be signed by the licensee. If the licensee cannot sign, the statement may be signed for the licensee at his or her direction and in his or her presence in the presence of two witnesses who shall sign the statement in his or her presence. The gift shall become effective upon the death of the licensee.

(c) No public entity or employee is liable for any loss, detriment, or injury resulting directly or indirectly from false or inaccurate information contained in the sticker provided pursuant to subdivision (b).

(d) No contract shall be let to any nongovernmental entity for the processing of drivers' licenses, unless the department receives two or more qualified bids from independent, responsible bidders.

SEC. 23. Section 12811.1 of the Vehicle Code is amended to read:

12811.1. (a) Upon the applicant's request, the department shall issue an adhesive backed medical information card which contains a format permitting the licensee to specify blood type, allergies, past or present medical problems, any medication being taken, the name of the licensee's doctor, the person to notify in case of an emergency, and whether the licensee is under a doctor's care.

(b) The medical information card, which shall be a different color than the anatomical gift card authorized by Section 12811, shall be the same size as a driver's license.

SEC. 24. Section 13000.5 of the Vehicle Code is repealed.

SEC. 25. Section 13002 of the Vehicle Code is amended to read:

13002. (a) Except as otherwise provided in subdivision (b), every identification card shall expire, unless canceled earlier, on the sixth birthday of the applicant following the date of application for the identification card. Renewal of any identification card, other than a senior citizen identification card, shall be made for a term which shall expire on the sixth birthday of the applicant following expiration of the identification card renewed, unless surrendered earlier. Any application for renewal received after 90 days after expiration of the identification card, including a senior citizen identification card, shall be considered the same as an application for an original identification card. The department shall, at the end of six years and six months after the issuance or renewal of an identification card, other than a senior citizen identification card, destroy any record of the card if it has expired and has not been renewed.

(b) Every senior citizen identification card issued pursuant to subdivision (b) of Section 13000 shall expire, unless canceled earlier, on the 10th birthday of the applicant following the date of application

for the identification card. Renewal of any senior citizen identification card shall be made for a term which shall expire on the 10th birthday of the applicant following expiration of the senior citizen identification card renewed, unless surrendered earlier. The department shall, at the end of 10 years and six months after the issuance or renewal of a senior citizen identification card, destroy any record of the card if it has expired and has not been renewed.

(c) An identification card may be issued to a person in exchange for the person's driver's license which is surrendered to the department for either of the following reasons:

(1) The person has a physical or mental condition and requests cancellation of the driver's license.

(2) The department has revoked the person's driving privilege based on the person's physical or mental condition.

That card shall be issued without the payment of any additional fee.

SEC. 26. Section 13005 of the Vehicle Code is amended to read:

13005. (a) The identification card shall resemble in appearance, so far as is practicable, a driver's license issued pursuant to this code. It shall adequately describe the applicant, bear his or her picture, and be produced in color or engraved by a process or processes that prohibit as near as possible, the ability to alter or reproduce the identification card, or prohibit the ability to superimpose a picture or photograph on the identification card without ready detection.

(b) With every identification card, the department shall provide a form which may be carried with the identification card by which the cardholder may indicate his or her willingness and intent to make an anatomical gift or his or her refusal to make an anatomical gift pursuant to Section 7150.5 of the Health and Safety Code and the date the pacemaker has been implanted. The form provided shall contain a statement sufficient in its terms to meet the requirements of the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code). To be effective, the statement shall be signed by the holder of the card. If the holder of the card cannot sign, the statement may be signed for the cardholder at his or her direction and in his or her presence in the presence of two witnesses who shall sign the statement in his or her presence. The gift shall become effective upon the death of the holder of the card.

(c) No contract shall be let to any nongovernmental entity for the processing of identification cards unless the department receives two or more qualified bids from independent, responsible bidders.

SEC. 27. Section 22511.8 of the Vehicle Code is amended to read:

22511.8. (a) Any local authority, by ordinance or resolution, and any person in lawful possession of an offstreet parking facility may designate stalls or spaces in an offstreet parking facility owned or operated by the local authority or person for the exclusive use of any vehicle which displays either a distinguishing license plate or a placard issued pursuant to Section 22511.5. The designation shall be

made by posting a sign as described in paragraph (1), and by either of the markings described in paragraph (2) or (3):

(1) By posting immediately adjacent to, and visible from, each stall or space, a sign consisting of a profile view of a wheelchair with occupant in white on a blue background.

(2) By outlining or painting the stall or space in blue and outlining on the ground in the stall or space in white or suitable contrasting color a profile view depicting a wheelchair with occupant.

(3) By outlining a profile view of a wheelchair with occupant in white on a blue background, of the same dimensions as in paragraph (2). The profile view shall be located so that it is visible to a traffic enforcement officer when a vehicle is properly parked in the space.

(b) If posted in accordance with subdivision (d) or (e), the owner or person in lawful possession of a privately owned or operated offstreet parking facility, after notifying the police or sheriff's department, may cause the removal of a vehicle from a stall or space designated pursuant to subdivision (a) in the facility to the nearest public garage unless a distinguishing license plate or placard issued pursuant to Section 22511.5 is displayed on the vehicle.

(c) If posted in accordance with subdivision (d), the local authority owning or operating an offstreet parking facility, after notifying the police or sheriff's department, may cause the removal of a vehicle from a stall or space designated pursuant to subdivision (a) in the facility to the nearest public garage unless a distinguishing license plate or placard issued pursuant to Section 22511.5 is displayed on the vehicle.

(d) Except as provided in Section 22511.9, the posting required for an offstreet parking facility owned or operated either privately or by a local authority shall consist of a sign not less than 17 by 22 inches in size with lettering not less than one inch in height which clearly and conspicuously states the following: "Unauthorized vehicles not displaying distinguishing placards or license plates issued for physically handicapped persons will be towed away at owner's expense. Towed vehicles may be reclaimed at

_____ or by telephoning
(Address)

_____."
(Telephone number of local law enforcement agency)

The sign shall be posted in either of the following locations:

(1) Immediately adjacent to, and visible from, the stall or space.

(2) In a conspicuous place at each entrance to the offstreet parking facility.

(e) If the parking facility is privately owned and public parking is prohibited by the posting of a sign meeting the requirements of paragraph (1) of subdivision (a) of Section 22658, the requirements of subdivision (b) may be met by the posting of a sign immediately adjacent to, and visible from, each stall or space indicating that a vehicle not meeting the requirements of subdivision (a) will be

removed at the owner's expense and containing the telephone number of the local traffic law enforcement agency.

(f) This section does not restrict the privilege granted to disabled persons and disabled veterans by Section 22511.5.

SEC. 28. Section 22511.9 is added to the Vehicle Code, to read:

22511.9. Every new or replacement sign installed on or after January 1, 1992, relating to parking privileges for disabled persons shall refer to "disabled persons" rather than "physically handicapped persons" or any other similar term, whenever such a reference is required on a sign.

SEC. 29. Section 22651.5 of the Vehicle Code is amended to read:

22651.5. Any peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, may, upon the complaint of any person, remove a vehicle parked within a residence or business district from a highway or from public or private property if an alarm device has been activated within the vehicle, the peace officer is unable to locate the owner of the vehicle within 45 minutes from the time of arrival at the vehicle's location, and the alarm device has not been silenced prior to removal.

Upon removal of a vehicle from a highway or from public or private property pursuant to this section, the peace officer ordering the removal shall immediately report the removal and the location to which the vehicle is removed to the Stolen Vehicle System of the Department of Justice.

SEC. 30. Section 22710 of the Vehicle Code is amended to read:

22710. (a) A service authority for the abatement of abandoned vehicles may be established, and a one dollar ($1) vehicle registration fee imposed, in any county if the board of supervisors of the county, by a two-thirds vote, and a majority of the cities having a majority of the incorporated population within the county have adopted resolutions providing for the establishment of the authority and imposition of the fee. The membership of the authority shall be determined by concurrence of the board of supervisors and a majority vote of the majority of the cities within the county having a majority of the incorporated population.

(b) The authority may contract and may undertake any act convenient or necessary to carry out any law relating to the authority. The authority shall be staffed by existing personnel of the city, county, or county transportation commission.

(c) (1) Notwithstanding any other provision of law, a service authority may adopt an ordinance establishing procedures for the abatement, removal, and disposal as public nuisances, of abandoned, wrecked, dismantled, or inoperative vehicles or parts thereof from private or public property; and for the recovery, pursuant to Section 25845 or 38773.5 of the Government Code, or assumption by the service authority, of costs of administration and that removal and disposal. The actual removal and disposal of vehicles shall be undertaken by an entity which may be a county or city or the department, pursuant to contract with the service authority as

provided in this section.

(2) The money received by an authority pursuant to Section 9250.7 and this section shall be used only for the abatement, removal, and disposal as public nuisances of any abandoned, wrecked, dismantled, or inoperative vehicles or parts thereof from private or public property.

(d) (1) An abandoned vehicle abatement program and plan of a service authority shall be implemented only with the approval of the county and a majority of the cities having a majority of the incorporated population.

(2) The department shall provide guidelines for abandoned vehicle abatement programs. An authority's abandoned vehicle abatement plan and program shall be consistent with those guidelines, and shall provide for, but not be limited to, an estimate of the number of abandoned vehicles, a disposal and enforcement strategy including contractual agreements, and appropriate fiscal controls.

(3) The approved plan shall be submitted to the department by August 1, 1991. The department shall review the plan and make recommendations for revision, if any, of the plan by October 1, 1991. The service authority shall submit the plan, as revised, to the department and, if determined by the department to be consistent with the guidelines, shall submit the plan to the Controller by the following January 1. Except as provided in subdivision (e), the Controller shall make no allocations for a calendar year to a service authority for which an approved plan was not received on or before January 1 of that year.

(e) Any approved plan which was adopted by the authority pursuant to subdivision (d) may be revised pursuant to the procedure prescribed in subdivision (d), including compliance with any dates described therein for submission to the department and the Controller, respectively, in the year in which the revisions are proposed. Compliance with that procedure shall only be required if the revisions are substantial. A service authority which is newly formed and has not complied with subdivision (d) may so comply after the dates specified in subdivision (d) by submitting an approved plan on or before those dates in the year in which the plan is submitted.

(f) A service authority shall cease to exist on the date that all revenues received by the authority pursuant to this section and Section 9250.7 have been expended.

SEC. 30.5. Section 23103 of the Vehicle Code is amended to read:

23103. (a) Any person who drives any vehicle upon a highway in willful or wanton disregard for the safety of persons or property is guilty of reckless driving.

(b) Any person who drives any vehicle in any offstreet parking facility, as defined in subdivision (d) of Section 12500, in willful or wanton disregard for the safety of persons or property is guilty of reckless driving.

(c) Persons convicted of the offense of reckless driving shall be punished by imprisonment in the county jail for not less than five days nor more than 90 days or by a fine of not less than one hundred forty-five dollars ($145) nor more than one thousand dollars ($1,000), or by both fine and imprisonment, except as provided in Section 23104.

SEC. 31. Section 25258.1 is added to the Vehicle Code, to read:

25258.1. A peace officer, as defined in subdivision (a) of Section 830.36 of the Penal Code, may use the flashing lights specified in subdivision (b) of Section 25258 only when operating an authorized emergency vehicle under the applicable conditions specified in subdivision (a) of Section 21055.

SEC. 32. Section 34501.2 of the Vehicle Code is amended to read:

34501.2. (a) The regulations adopted pursuant to Section 34501, except as provided in this subdivision and subdivision (b), shall establish limitations on driving hours for motor vehicles subject thereto that are consistent with the hours-of-service requirements adopted by the United States Department of Transportation in Part 395 of Title 49 of the Code of Federal Regulations, as those regulations now exist or are hereafter amended. Driving hours and onduty status shall not begin following less than eight consecutive hours off duty. Drivers' hours shall be regulated from the time a driver first reports for duty for any employer. A driver who accumulates eight hours off duty resting in a sleeper berth in not more than two separate periods totaling at least eight hours, neither of which is less than two hours, is in compliance with the requirement for eight consecutive hours of offduty time.

(b) The regulations adopted pursuant to Section 34501 shall establish the following exceptions to subdivision (a):

(1) A driver may be permitted or required to drive for more than the number of hours specified in subdivision (a) if the excess hours are due to snow, sleet, fog, or other adverse conditions of weather, road, or traffic. This extended driving period shall be permitted even though the adverse conditions were known before the trip began.

(2) In the event of a traffic accident, medical emergency, or disaster, a driver may complete the trip if the trip could reasonably have been completed under normal conditions within the time specified in subdivision (a).

(3) Other exceptions applicable to drivers assigned to governmental fire suppression and prevention, as determined appropriate by the Department of the California Highway Patrol.

(4) The maximum driving time within a work period is 12 hours if the vehicle is engaged solely in intrastate commerce and is not transporting hazardous substances or hazardous wastes as defined by regulations of the United States Department of Transportation in Section 171.8 of Title 49 of the Code of Federal Regulations, as that section now exists or is hereafter amended.

(5) A driver employed by an electrical corporation as defined in Section 218 of the Public Utilities Code, a gas corporation as defined

in Section 222 of that code, or a telephone corporation as defined in Section 234 of that code may be permitted or required to drive more than the number of hours specified in subdivision (a) while operating a public utility vehicle during the emergency restoration of public utility service.

SEC. 32.5. Section 34501.2 of the Vehicle Code is amended to read:

34501.2. (a) The regulations adopted pursuant to Section 34501, except as provided in this subdivision and subdivision (b), shall establish limitations on driving hours for motor vehicles subject thereto that are consistent with the hours-of-service requirements adopted by the United States Department of Transportation in Part 395 of Title 49 of the Code of Federal Regulations, as those regulations now exist or are hereafter amended. Driving hours and onduty status shall not begin following less than eight consecutive hours off duty. Drivers' hours shall be regulated from the time a driver first reports for duty for any employer. A driver who accumulates eight hours off duty resting in a sleeper berth in not more than two separate periods totaling at least eight hours, neither of which is less than two hours, is in compliance with the requirement for eight consecutive hours of offduty time.

(b) The regulations adopted pursuant to Section 34501 shall establish the following exceptions to subdivision (a):

(1) A driver may be permitted or required to drive for more than the number of hours specified in subdivision (a) if the excess hours are due to snow, sleet, fog, or other adverse conditions of weather, road, or traffic. This extended driving period shall be permitted even though the adverse conditions were known before the trip began.

(2) In the event of a traffic accident, medical emergency, or disaster, a driver may complete the trip if the trip could reasonably have been completed under normal conditions within the time specified in subdivision (a).

(3) Other exceptions applicable to drivers assigned to governmental fire suppression and prevention, as determined appropriate by the Department of the California Highway Patrol.

(4) The maximum driving time within a work period is 10 hours for tank vehicles transporting more than 500 gallons of flammable liquid or 12 hours for all other vehicles engaged solely in intrastate commerce and is not transporting hazardous substances or hazardous wastes as defined by regulations of the United States Department of Transportation in Section 171.8 of Title 49 of the Code of Federal Regulations, as that section now exists or is hereafter amended.

(5) A driver employed by an electrical corporation as defined in Section 218 of the Public Utilities Code, a gas corporation as defined in Section 222 of that code, or a telephone corporation as defined in Section 234 of that code may be permitted or required to drive more than the number of hours specified in subdivision (a) while operating a public utility vehicle during the emergency restoration

of public utility service.

SEC. 33. Section 34501.12 of the Vehicle Code, as amended by Chapter 13 of the Statutes of 1991, is amended to read:

34501.12. (a) Notwithstanding Section 408, as used in this section and Sections 34505.5 and 34505.6, "motor carrier" means the registered owner of any vehicle described in subdivision (a), (b), (d), (e), (f), or (g) of Section 34500, except in the following circumstances:

(1) The registered owner leases the vehicle to another person for a term of more than four months. If the lease is for more than four months, the lessee is the motor carrier.

(2) The registered owner operates the vehicle exclusively under the authority and direction of another person. If the operation is exclusively under the authority and direction of another person, that other person may assume the responsibilities as the motor carrier. If not so assumed, the registered owner is the motor carrier.

(b) Each motor carrier who, in this state, directs the operation of, or maintains, any vehicle of a type described in subdivision (a) shall designate one or more terminals, as defined in Section 34515, in this state where vehicles can be inspected by the department pursuant to paragraph (3) of subdivision (a) of Section 34501 and where vehicle inspection and maintenance records and driver records will be made available for inspection.

(c) The department shall inspect, at least every 25 months, every terminal, as defined in Section 34515 of any motor carrier who, at any time, operates any vehicle described in subdivision (a).

As used in this section and in Sections 34505.5 and 34505.6, subdivision (f) of Section 34500 includes only those combinations where the gross vehicle weight rating (GVWR) of the towing vehicle exceeds 10,100 pounds, and subdivision (g) of Section 34500 includes only those vehicles transporting hazardous material for which the display of placards is required pursuant to Section 27903, a license is required pursuant to Section 32000.5, or for which hazardous waste hauler registration is required pursuant to Section 25163 of the Health and Safety Code. Historical vehicles, as described in Section 5004, vehicles which display special identification plates in accordance with Section 5011, implements of husbandry, as defined in Chapter 1 (commencing with Section 36000) of Division 16, and vehicles owned or operated by an agency of the federal government are not subject to this section or to Sections 34505.5 and 34505.6.

(d) (1) It is the responsibility of the motor carrier to schedule with the department the inspection required by subdivision (c). The motor carrier shall submit an application form supplied by the department, accompanied by the required fee. The fee, which is nonrefundable, is four hundred dollars ($400) per terminal, except in the case of an owner-operator, as defined in Section 3557 of the Public Utilities Code, or a nonregulated motor carrier who owns, leases, or otherwise operates not more than one heavy power unit and not more than three towed vehicles described in subdivision (a),

(b), (d), (e), (f), or (g) of Section 34500, for which the fee shall be one hundred dollars ($100). Federal, state, and local public entities are exempt from the fee requirements of this section.

(2) The inspection term for each inspected terminal of a motor carrier shall expire 25 months from the date the terminal receives a satisfactory compliance rating, as specified in subdivision (g), and every 25 months thereafter. Applications and fees for subsequent inspections shall be submitted not later than seven months before the expiration of the motor carrier's then current inspection term. If the motor carrier has submitted the inspection application and the required accompanying fees, but the department is unable to complete the inspection within the 25-month inspection period, then no additional fee shall be required for the inspection requested in the original application.

(3) All fees collected pursuant to this subdivision shall be deposited in the Motor Vehicle Account in the State Transportation Fund. An amount equal to the fees collected shall be available for appropriation by the Legislature from the Motor Vehicle Account to the department for the purpose of conducting truck terminal inspections and for the additional roadside safety inspections required by Section 34514.

(e) It is unlawful for a motor carrier to operate any vehicle subject to this section without having submitted an inspection application and the required fees to the department as required by paragraph (2) of subdivision (b).

(f) On and after July 1, 1992, it is unlawful for any motor carrier to operate any vehicle subject to this section after submitting an inspection application to the department, without the inspection described in subdivision (a) having been performed and a safety compliance report having been issued to the motor carrier within the 25-month inspection period or within 60 days immediately preceding the inspection period.

(g) Any inspected terminal which does not receive a satisfactory compliance rating is required to be reinspected within 90 days after the issuance of an unsatisfactory compliance rating. Each application for reinspection under this subdivision shall be accompanied by the fee, which is nonrefundable, specified in paragraph (1) of subdivision (d) and shall be filed within 60 days of issuance of the unsatisfactory compliance rating. If a motor carrier's Public Utilities Commission operating authority was suspended as a result of an unsatisfactory compliance rating, the department shall conduct no reinspection until requested to do so by the Public Utilities Commission.

(h) It is the intent of the Legislature that the department make its best efforts to inspect terminals within the resources provided. In the interest of the state, the Commissioner of the California Highway Patrol may extend for a period not to exceed six months the inspection terms beginning prior to July 1, 1990.

(i) The department shall report to the Legislature not later than

September 1, 1991, on the mandates of the California Commercial Motor Vehicle Safety Act of 1988 and the mandates of Section 34514. The department shall recommend any program adjustments that may be desirable, and shall report on any fee adjustments that may be required to fully fund biennial terminal inspections of all California truck terminals. The department shall also consider the feasibility of implementing an incentive program which would benefit truck operators with excellent safety records.

SEC. 34. Section 34505.1 of the Vehicle Code is amended to read:

34505.1. (a) Upon determining that a tour bus operator has either (1) failed to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety, and, in the department's opinion, that failure presents an imminent danger to public safety or constitutes such a consistent failure as to justify a recommendation to the Public Utilities Commission or the Interstate Commerce Commission or (2) failed to enroll all drivers in the pull notice system as required by Section 1808.1, the department shall recommend to the Public Utilities Commission or the Interstate Commerce Commission that the carrier's operating authority be suspended, denied, or revoked, whichever is appropriate. For purposes of this subdivision, two consecutive unsatisfactory compliance ratings for an inspected terminal assigned because the tour bus operator failed to comply with the periodic report requirements of Section 1808.1 or the cancellation of the operator's enrollment by the Department of Motor Vehicles for nonpayment of required fees is a consistent failure. However, when recommending denial of an application for new or renewal authority, the department need not conclude that the carrier's failure presents an imminent danger to public safety or that it constitutes a consistent failure. The department need only conclude that the carrier's compliance with the safety-related matters described in paragraph (1) of subdivision (a) is sufficiently unsatisfactory to justify a recommendation for denial. The department shall retain a record, by operator, of every recommendation made pursuant to this section.

(b) Before transmitting a recommendation pursuant to subdivision (a), the department shall notify the carrier in writing of all of the following:

(1) That the department has determined that the carrier's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in a suspension, revocation, or denial of the carrier's operating authority by the California Public Utilities Commission or the Interstate Commerce Commission.

(3) That the carrier may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. If a review is requested by the carrier, the

department shall conduct and evaluate that review prior to transmitting any notification pursuant to subdivision (a).

SEC. 35. Section 34505.6 of the Vehicle Code is amended to read:

34505.6. (a) Upon determining that a motor carrier operating any vehicle described in subdivision (a), (b), (d), (e), (f), or (g) of Section 34500 has either (1) failed to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety, and, in the department's opinion, that failure presents an imminent danger to public safety or constitutes such a consistent failure as to justify a recommendation to the Public Utilities Commission or the Interstate Commerce Commission, or (2) failed to enroll all drivers in the pull notice system as required by Section 1808.1, the department shall recommend to the Public Utilities Commission or the Interstate Commerce Commission that the carrier's operating authority be suspended, denied, or revoked, whichever is appropriate. For purposes of this subdivision, two consecutive unsatisfactory compliance ratings for an inspected terminal assigned because the motor carrier failed to comply with the periodic report requirements of Section 1808.1 or the cancellation of the carrier's enrollment by the Department of Motor Vehicles for nonpayment of required fees is a consistent failure. The department shall retain a record, by operator, of every recommendation made pursuant to this section.

(b) Before transmitting a recommendation pursuant to subdivision (a), the department shall notify the carrier in writing of all of the following:

(1) That the department has determined that the carrier's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in a suspension, revocation, or denial of the carrier's operating authority by the California Public Utilities Commission or the Interstate Commerce Commission.

(3) That the carrier may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. If a review pursuant to this paragraph is requested by the carrier, the department shall conduct and evaluate that review prior to transmitting any notification pursuant to subdivision (a).

SEC. 36. Section 34506 of the Vehicle Code is amended to read:

34506. It is a misdemeanor to fail to comply with any rule or regulation adopted by the Department of the California Highway Patrol pursuant to Section 34501, 34501.5, 34508, or 34513 regarding any of the following:

(a) Hours of service of drivers.

(b) Hazardous material transportation.

(c) Schoolbus construction, design, color, equipment, maintenance, or operation.

(d) Youth bus equipment, maintenance, or operation.

(e) Tour bus equipment, maintenance, or operation.

(f) Equipment, maintenance, or operation of any vehicle described in subdivision (a), (b), (c), (d), (e), (f), or (g) of Section 34500.

(g) Equipment, maintenance, or operation of any school pupil activity bus.

SEC. 37. Section 40000.6 of the Vehicle Code is amended to read:

40000.6. A violation of any of the following is a misdemeanor and not an infraction:

(a) Subdivision (b) of Section 1808.1, relating to enrollment in the pull notice system.

(b) Subdivision (f) of Section 1808.1, relating to employment of disqualified drivers.

SEC. 38. Section 40000.21 of the Vehicle Code is amended to read:

40000.21. A violation of any of the following provisions is a misdemeanor, and not an infraction:

(a) Subdivision (a) of Section 34506, relating to the hours of service of drivers.

(b) Subdivision (b) of Section 34506, relating to the transportation of hazardous materials.

(c) Subdivision (c) of Section 34506, relating to schoolbuses.

(d) Subdivision (d) of Section 34506, relating to youth buses.

(e) Section 34505 or subdivision (e) of Section 34506, relating to tour buses.

(f) Section 34505.5 or subdivision (f) of Section 34506, relating to vehicles described in subdivisions (a), (b), (c), (d), (e), (f), and (g) of Section 34500.

(g) Subdivision (a) of Section 34501.3, relating to unlawful scheduling of runs by motor carriers.

(h) Subdivision (g) of Section 34506, relating to school pupil activity buses.

SEC. 39. Section 42001.2 of the Vehicle Code is amended to read:

42001.2. (a) Every person convicted of an infraction for a violation of Section 27153.5 with a motor vehicle having a manufacturer's maximum gross vehicle weight rating of 6,001 or more pounds shall be punished by a fine for the first offense of not less than two hundred fifty dollars ($250) and not more than two thousand five hundred dollars ($2,500), and for a second or subsequent offense within one year of not less than five hundred dollars ($500) and not more than five thousand dollars ($5,000).

(b) Every person convicted of an infraction for a second or subsequent violation of Section 27153, or a second or subsequent violation of 27153.5, with a motor vehicle having a manufacturer's maximum gross vehicle weight rating of less than 6,001 pounds, shall be punished by a fine of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250).

(c) Notwithstanding Section 40616, the penalties in subdivision (b) apply when a person is guilty of willfully violating a written

promise to correct, or willfully failing to deliver proof of correction, as prescribed in Section 40616, when an offense described in subdivision (b) was the violation for which the notice to correct was issued and the person was previously convicted of the same offense, except that costs of repair shall be limited to those specified in Section 44017 of the Health and Safety Code.

(d) Revenues collected from fines and forfeitures imposed under this section shall be allocated as follows: 15 percent to the court, 10 percent to the prosecuting agency, 25 percent to the enforcement agency, except the Department of the California Highway Patrol, and 50 percent to the air quality management district or air pollution control district in which the infraction occurred, to be used for programs to regulate or control emissions from vehicular sources of air pollution. If the enforcement agency is the Department of the California Highway Patrol, the revenues shall be allocated 50 percent to the prosecuting agency, and 50 percent to the district in which the infraction occurred. If no prosecuting agency is involved, 25 percent shall be allocated to the court.

(e) For the purposes of subdivisions (a), (b), and (c), a second or subsequent offense does not include an offense involving a different motor vehicle.

SEC. 40. Section 1 of Chapter 273 of the Statutes of 1991 is amended to read:

SECTION 1. The Legislature finds and declares all of the following:

(a) Pursuant to Article 6 (commencing with Section 53100) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code, various local agencies and the Department of the California Highway Patrol working in conjunction with public utility telephone corporations have established local emergency telephone systems utilizing 911 as a primary access number.

(b) In recent years, domestic public land cellular radiotelephone systems have been established in various parts of California, and these systems offer an opportunity for the traveling public to seek emergency assistance, and to report threats to the public health and safety in situations where immediate access to conventional landline telephones is limited.

(c) Cellular subscribers are presently subject to an emergency telephone user surcharge and may also be required to pay added airtime charges for calls to emergency telephone services.

(d) The public interest would be served by requiring cellular radiotelephone utilities to provide their customers with free access to 911 services, and by requiring that that access be without paying the airtime charges which customarily are due for all communications on the cellular network.

SEC. 41. Sections 4.5, 5.5, 7.5, 8.5, and 9.5 of this bill incorporate amendments to Sections 1033.7, 1070.5, 3774.5, 5285.5, and 5378.5, respectively, of the Public Utilities Code proposed by both this bill and AB 842. They shall only become operative if (1) both bills are

enacted and become effective on or before January 1, 1992, but this bill becomes operative first, (2) each bill amends Sections 1033.7, 1070.5, 3774.5, 5285.5, and 5378.5 of the Public Utilities Code, and (3) this bill is enacted after AB 842, in which case Sections 1033.7, 1070.5, 3774.5, 5285.5, and 5378.5 of the Public Utilities Code, as amended by Sections 4, 5, 7, 8, and 9 of this bill, shall remain operative only until the operative date of AB 842, at which time Sections 4.5, 5.5, 7.5, 8.5, and 9.5 of this bill shall become operative.

SEC. 42. Section 32.5 of this bill incorporates amendments to Section 34501.2 of the Vehicle Code proposed by both this bill and SB 123. They shall become operative if (1) both bills are enacted and become effective on or before January 1, 1992, but this bill becomes operative first, (2) each bill amends Section 34501.2 of the Vehicle Code, and (3) this bill is enacted after SB 123, in which case Section 34501.2 of the Vehicle Code, as amended by Section 32 of this bill, shall remain operative only until the operative date of SB 123, at which time Section 32.5 of this bill shall become operative.

SEC. 43. If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 44. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 45. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the provisions of this act, which makes necessary changes in various provisions regarding transportation, may become effective as quickly as possible during 1991, it is necessary that this act take effect immediately.

CHAPTER 929

An act to amend Section 11642 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 11642 of the Health and Safety Code is amended to read:

11642. (a) To the extent moneys are available therefor, the Controller, in accordance with criteria and procedures which shall be adopted by the Department of Justice, may reimburse counties with a population under 1,750,000 for costs of prosecuting violations, attempts to violate, or conspiracies to violate Section 11100, 11100.1, 11104, 11105, 11379.6, or 11383 initiated after January 1, 1987. Funding under this subdivision shall not exceed twenty-five thousand dollars ($25,000) for each prosecution or joint prosecution assisted. All funds allocated to a county under this subdivision shall be distributed by it only to its prosecutorial agency, to be used solely for investigation and prosecution of these offenses. Funds distributed under this subdivision shall not be used to supplant any local funds that would, in the absence of this subdivision, be made available to support the prosecutorial efforts of counties.

Cases wholly financed or reimbursed under any other state or federal program including, but not limited to, the Asset Forfeiture Program (Section 11489), the Major Narcotic Vendors Prosecution Law (Section 13881 of the Penal Code), or the California Career Criminal Apprehension Program (Section 13851 of the Penal Code), shall not be entitled to reimbursement under this subdivision.

(b) To the extent moneys are available therefor, the Controller, in accordance with criteria and procedures which shall be adopted by the Department of Justice, may reimburse counties with a population under 1,750,000 for law enforcement personnel expenses, not exceeding ten thousand dollars ($10,000) per case, incurred in the investigation of violations, attempts to violate, or conspiracies to violate Section 11100, 11100.1, 11104, 11105, 11379.6, or 11383 initiated after January 1, 1987. All funds allocated to a county under this subdivision shall be distributed by it only to its law enforcement agency to be used solely for investigation and detection of these offenses. Funds distributed under this subdivision shall not be used to supplant any local funds that would, in the absence of this subdivision, be made available to support the law enforcement efforts of counties. Cases financed or reimbursed under any other state or federal program, including, but not limited to, the Asset Forfeiture Program, (Section 11489), the California Career Criminal Apprehension Program (Section 13851 of the Penal Code), or the

federal Asset Forfeiture Program (21 U.S.C. Sec. 881), shall not be entitled to reimbursement under this subdivision.

(c) (1) To the extent moneys are available therefor, the Controller, in accordance with criteria and procedures which shall be adopted by the Department of Justice, may reimburse counties with a population under 1,750,000 for costs incurred by, or at the direction of, state or local law enforcement agencies to remove and dispose of or store toxic waste from the sites of laboratories used for the unlawful manufacture of a controlled substance.

(2) The local law enforcement agency or Department of Justice shall notify the local health officer within 24 hours of the seizure of a laboratory used for the unlawful manufacture of a controlled substance. The local health officer shall either:

(A) Make a determination as to whether the site poses an immediate threat to public health and safety, and if so, shall undertake immediate corrective action.

(B) Notify the State Department of Health Services.

As used in this section, "counties" includes any city within a county with a population of less than 1,750,000.

The Department of Justice may adopt emergency regulations consistent with this section and the Administrative Procedure Act.

CHAPTER 930

An act to amend Section 602.3 of the Penal Code, relating to tenancies.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 602.3 of the Penal Code is amended to read:

602.3. (a) A lodger who is subject to Section 1946.5 of the Civil Code and who remains on the premises of an owner-occupied dwelling unit after receipt of a notice terminating the hiring, and expiration of the notice period, provided in Section 1946.5 of the Civil Code is guilty of an infraction and may, pursuant to Section 837, be arrested for the offense by the owner, or in the event the owner is represented by a court-appointed conservator, executor, or administrator, by the owner's representative. Notwithstanding Section 853.5, the requirement of that section for release upon a written promise to appear shall not preclude an assisting peace officer from removing the person from the owner-occupied dwelling unit.

(b) The removal of a lodger from a dwelling unit by the owner pursuant to subdivision (a) is not a forcible entry under the provisions of Section 1159 of the Code of Civil Procedure and shall

not be a basis for civil liability under that section.

(c) Chapter 5 (commencing with Section 1980) of Title 5 of Part 4 of Division 3 of the Civil Code applies to any personal property of the lodger which remains on the premises following the lodger's removal from the premises pursuant to this section.

(d) Nothing in this section shall be construed to limit the owner's right to have a lodger removed under other provisions of law.

(e) Except as provided in subdivision (b), nothing in this section shall be construed to limit or affect in any way any cause of action an owner or lodger may have for damages for any breach of the contract of the parties respecting the lodging.

(f) This section applies only to owner-occupied dwellings where a single lodger resides. Nothing in this section shall be construed to determine or affect in any way the rights of persons residing as lodgers in an owner-occupied dwelling where more than one lodger resides.

CHAPTER 931

An act to amend Sections 42250.1, 42262, and 42263 of the Education Code, relating to school facilities.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 42250.1 of the Education Code is amended to read:

42250.1. (a) From funds appropriated by the Legislature for this purpose for any fiscal year, the board shall allocate to school districts selected by the board pursuant to this section, funding for the expenses of air-conditioning equipment and insulation materials, and for the costs of installing the equipment and materials, for schools operating in the current fiscal year or planning to operate in the subsequent fiscal year on a year-round or continuous basis pursuant to Chapter 3 (commencing with Section 37400), Chapter 4 (commencing with Section 37500), or Chapter 5 (commencing with Section 37600) of Part 22.

(b) The State Allocation Board shall allocate the funds appropriated under subdivision (a) only to those school districts in which a high percentage of the pupils, or a significant number of the pupils, are enrolled in the current fiscal year or will be enrolled in the subsequent fiscal year in year-round or continuous schools as described in subdivision (a). The board shall grant preference in the allocation of those funds to those year-round or continuous schools that are both situated in climates that require air-conditioning and insulation during June, July, and August, and have a high percentage

of overcrowding of pupils. In addition, all schools participating in the demonstration program provided pursuant to Chapter 2.5 (commencing with Section 37300) of Part 22 and satisfying the criteria set forth in this subdivision shall be eligible to receive, and given priority for, the maximum allocation of funds under this section.

(c) Whenever a school district has received an allocation pursuant to this section for a school that was scheduled to begin operating year-round in the subsequent fiscal year but that did not begin operating year-round in that fiscal year, the school district shall repay the amount allocated with interest to the State School Building Fund.

(d) A school district may elect to apply for funding under this section on a basis that groups two or more qualifying schools in the district.

A school district that elects to apply for funding pursuant to this subdivision shall identify the cost for each school in that application. The total of those costs shall be the maximum amount apportioned by the state for those schools contained in that single application and that amount shall be no more than the amount that would have been apportioned to each school if each school had submitted an application individually.

(e) Funds allocated to any school district under this section may be expended only to pay the actual allowable expenses of air-conditioning equipment and insulation materials, and of the installation of air-conditioning equipment and insulation materials, at the project sites that generated the funding eligibility.

SEC. 2. Section 42262 of the Education Code is amended to read:

42262. (a) Year-round school grants awarded under this article for purposes of the implementation of multitrack year-round school programs shall be expended for the following purposes:

(1) Planning, including community activities, necessary for that implementation.

(2) One-time minor capital outlay and equipment associated with converting school facilities to multitrack year-round operation.

(3) Deferred maintenance on facilities proposed for multitrack year-round operation.

(4) Other necessary activities associated with conversion to multitrack year-round operations, including, but not limited to, curriculum revision and scheduling changes and staff development.

(b) These implementation grants are available on a one-time basis for each new multitrack year-round schoolsite, subject to application approval, in an amount up to twenty-five dollars ($25) per pupil currently enrolled in the site planned for year-round operation, as that pupil enrollment is identified in the CBEDS report transmitted to the State Department of Education by the school district.

For purposes of this subdivision, "CBEDS report" means the report transmitted by school districts to the State Department of Education for purposes of the California Basic Education Data System which exists within the department and is based upon a

single annual collection of data about school staff and pupil enrollment conducted by the department for reporting, program management, and planning purposes.

The superintendent may approve all or any portion of an application for an implementation grant, as described in subdivision (a) of this section, up to a maximum of one hundred thousand dollars ($100,000) per schoolsite. If the applications submitted exceed the appropriations available for this purpose, the amount per pupil shall be prorated by an equal amount.

(c) If a schoolsite does not operate on a multitrack year-round basis in the fiscal year subsequent to receiving a year-round implementation grant pursuant to this section, the school district shall repay the implementation grant received for that schoolsite, plus interest that the repayment amount would have earned in the Pooled Money Investment Fund, within one year following the date on which the schoolsite was to begin to operate on a multitrack year-round basis. If the grant, plus interest, is not repaid within the one-year period, the Superintendent of Public Instruction shall withhold the total amount owed pursuant to this subdivision from the apportionment to be made to that district calculated pursuant to Section 42238.

SEC. 3. Section 42263 of the Education Code is amended to read:

42263. (a) Commencing in the 1990–91 fiscal year, year-round school grants, in addition to those grants authorized under Section 42262, shall be awarded annually for the operation of multitrack year-round education programs to school districts that meet the criteria specified in this section, in addition to the criteria otherwise applicable under this article.

(b) For each fiscal year, for each schoolsite for which a school district applies for funding under this article, the district shall certify the number of pupils in excess of the capacity of the schoolsite, as determined by State Allocation Board or court-mandated pupil loading standards, for which the district elects to claim funding under this article. The excess pupil capacity calculated for purposes of this subdivision shall reflect only the additional capacity that has been generated as a result of operation on a multitrack year-round basis, and shall not reflect increased capacity generated by any other means. A school district shall be eligible for funding under this section only as to any schoolsite for which the pupil population certified by the district exceeds the capacity of the schoolsite by not less than 5 percent.

(c) To the extent funding is made available for the purposes of this section, the Superintendent of Public Instruction shall allocate to an applicant school district, for each schoolsite that qualifies for funding under subdivision (b), an amount equal to the district's share of the product of the statewide average cost avoided per pupil, as established under subdivision (e), and the number of pupils certified by the district under subdivision (b). For purposes of this subdivision, a district's share shall be determined according to the

percentage by which the number of certified pupils reflects an increase in the capacity of the schoolsite, as follows:

	District's Share
1. Less than 5%	0%
2. Equal to or greater than 5% but less than 10%	50%
3. Equal to or greater than 10% but less than 15%	67%
4. Equal to or greater than 15% but less than 20%	75%
5. Equal to or greater than 20% but less than 25%	85%
6. Equal to or greater than 25%	90%

(d) (1) The State Allocation Board shall calculate the statewide average cost avoided per pupil under Chapter 22 (commencing with Section 17700) of Part 10 through the operation of school facilities on a multitrack year-round basis, based on the following school facilities cost components:

(A) The cost of facilities construction.

(B) The cost of land acquisition.

(C) Relocation costs in connection with land acquisition.

(D) State costs incurred as a result of interest that would be paid by the state for debt service on state general obligation bond financing to construct new school facilities under Chapter 22 (commencing with Section 17700) of Part 10.

(2) The calculation of costs under subparagraphs (B) and (C) of paragraph (1) shall exclude data from the lowest quartile and the highest quartile.

(3) The State Allocation Board shall calculate the statewide average cost avoided per pupil, pursuant to this subdivision, on the basis of the 1990–91 and 1991–92 fiscal years and every two-year period thereafter. No later than December 1, 1992, and biennially thereafter, the board shall report to the Legislature the result of its calculation for the prior two-year period.

(e) For the 1990–91 and 1991–92 fiscal years, the "statewide average cost avoided per pupil," for purposes of this section, shall be one thousand one hundred fifty-one dollars ($1,151). For the 1992–93 fiscal year, and each fiscal year thereafter, the "statewide average cost avoided per pupil" shall be established by the statute that appropriates funding for the purposes of this section for that fiscal year.

CHAPTER 932

An act to amend Section 2101 of, and to add Title 8.5 (commencing with Section 676) to Part 2 of, the Code of Civil Procedure, relating to enforcement of claims.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Title 8.5 (commencing with Section 676) is added to Part 2 of the Code of Civil Procedure, to read:

TITLE 8.5. UNIFORM FOREIGN-MONEY CLAIMS ACT

676. This title shall be known and may be cited as the Uniform Foreign-Money Claims Act.

676.1. As used in this title:

(1) "Action" means a judicial proceeding or arbitration in which a payment in money may be awarded or enforced with respect to a foreign-money claim.

(2) "Bank-offered spot rate" means the spot rate of exchange at which a bank will sell foreign money at a spot rate.

(3) "Conversion date" means the banking day next preceding the date on which money, in accordance with this title, is (i) paid to a claimant in an action or distribution proceeding, (ii) paid to the official designated by law to enforce a judgment or award on behalf of a claimant, or (iii) used to recoup, setoff, or counterclaim in different moneys in an action or distribution proceeding.

(4) "Distribution proceeding" means a judicial or nonjudicial proceeding for the distribution of a fund in which one or more foreign-money claims is asserted and includes an accounting, an assignment for the benefit of creditors, a foreclosure, the liquidation or rehabilitation of a corporation or other entity, and the distribution of an estate, trust, or other fund.

(5) "Foreign money" means money other than money of the United States of America.

(6) "Foreign-money claim" means a claim upon an obligation to pay, or a claim for recovery of a loss, expressed in or measured by a foreign money.

(7) "Money" means a medium of exchange for the payment of obligations or a store of value authorized or adopted by a government or by intergovernmental agreement.

(8) "Money of the claim" means the money determined as proper pursuant to Section 676.4.

(9) "Person" means an individual, a corporation, government or governmental subdivision or agency, business trust, estate, trust, joint venture, partnership, association, two or more persons having

a joint or common interest, or any other legal or commercial entity.

(10) "Rate of exchange" means the rate at which money of one country may be converted into money of another country in a free financial market convenient to or reasonably usable by a person obligated to pay or to state a rate of conversion. If separate rates of exchange apply to different kinds of transactions, the term means the rate applicable to the particular transaction giving rise to the foreign-money claim.

(11) "Spot rate" means the rate of exchange at which foreign money is sold by a bank or other dealer in foreign exchange for immediate or next day availability or for settlement by immediate payment in cash or equivalent, by charge to an account, or by an agreed delayed settlement not exceeding two days.

(12) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

676.2. (a) This title applies only to a foreign-money claim in an action or distribution proceeding.

(b) This title applies to foreign-money issues even if other law under the conflict-of-laws rules of this state applies to other issues in the action or distribution proceeding.

676.3. (a) The effect of this title may be varied by agreement of the parties made before or after commencement of an action or distribution proceeding or the entry of judgment.

(b) Parties to a transaction may agree upon the money to be used in a transaction giving rise to a foreign-money claim and may agree to use different moneys for different aspects of the transaction. Stating the price in a foreign money for one aspect of a transaction does not alone require the use of that money for other aspects of the transaction.

676.4. (a) The money in which the parties to a transaction have agreed that payment is to be made is the proper money of the claim for payment.

(b) If the parties to a transaction have not otherwise agreed, the proper money of the claim, as in each case may be appropriate, is one of the following:

(1) The money regularly used between the parties as a matter of usage or course of dealing.

(2) The money used at the time of a transaction in international trade, by trade usage or common practice, for valuing or settling transactions in the particular commodity or service involved.

(3) The money in which the loss was ultimately felt or will be incurred by the party claimant.

676.5. (a) If an amount contracted to be paid in a foreign money is measured by a specified amount of a different money, the amount to be paid is determined on the conversion date.

(b) If an amount contracted to be paid in a foreign money is to be measured by a different money at the rate of exchange prevailing on a date before default, that rate of exchange applies only to

payments made within a reasonable time after default, not exceeding 30 days. Thereafter, conversion is made at the bank-offered spot rate on the conversion date.

(c) A monetary claim is neither usurious nor unconscionable because the agreement on which it is based provides that the amount of the debtor's obligation to be paid in the debtor's money, when received by the creditor, shall equal a specified amount of the foreign money of the country of the creditor. If, because of unexcused delay in payment of a judgment or award, the amount received by the creditor does not equal the amount of the foreign money specified in the agreement, the court or arbitrator shall amend the judgment or award accordingly.

676.6. (a) A person may assert a claim in a specified foreign money. If a foreign-money claim is not asserted, the claimant makes the claim in United States dollars.

(b) An opposing party may allege and prove that a claim, in whole or in part, is in a different money than that asserted by the claimant.

(c) A person may assert a defense, setoff, recoupment, or counterclaim in any money without regard to the money of other claims.

(d) The determination of the proper money of the claim is a question of law.

676.7. (a) Except as provided in subdivision (c), a judgment or award on a foreign-money claim shall be stated in an amount of the money of the claim.

(b) A judgment or award on a foreign-money claim is payable in that foreign money or, at the option of the debtor, in the amount of United States dollars which will purchase that foreign money on the conversion date at a bank-offered spot rate.

(c) Assessed costs shall be entered in United States dollars.

(d) Each payment in United States dollars shall be accepted and credited on a judgment or award on a foreign-money claim in the amount of the foreign money that could be purchased by the dollars at a bank-offered spot rate of exchange at or near the close of business on the conversion date for that payment.

(e) A judgment or award made in an action or distribution proceeding on both (1) a defense, setoff, recoupment, or counterclaim and (2) the adverse party's claim, shall be netted by converting the money of the smaller into the money of the larger, and by subtracting the smaller from the larger, and specify the rates of exchange used.

(f) A judgment substantially in the following form complies with subdivision (a):

"IT IS ADJUDGED AND ORDERED, that Defendant _____ pay to Plaintiff _____
(insert name) (insert name)
the sum of _____
(insert amount in the foreign money)
plus interest on that sum at the rate of
_____ percent a year or,
(insert rate - see Section 676.9)
at the option of the judgment debtor, the number of United States dollars which will purchase the
_____ with interest due, at
(insert name of foreign money)
a bank-offered spot rate at or near the close of business on the banking day next before the day of payment, together with assessed costs of
_____ United States dollars."
(insert amount)

(g) If a contract claim is of the type covered by subdivision (a) or (b) of Section 676.5, the judgment or award shall be entered for the amount of money stated to measure the obligation to be paid in the money specified for payment or, at the option of the debtor, the number of United States dollars which will purchase the computed amount of the money of payment on the conversion date at a bank-offered spot rate.

(h) A judgment shall be entered in foreign money in the same manner, and has the same effect as a lien , as other judgments. It may be discharged by payment.

676.8. The rate of exchange prevailing at or near the close of business on the day the distribution proceeding is initiated governs all exchanges of foreign money in a distribution proceeding. A foreign-money claimant in a distribution proceeding shall assert its claim in the named foreign money and show the amount of United States dollars resulting from a conversion as of the date the proceeding was initiated.

676.9. (a) With respect to a foreign-money claim, recovery of prejudgment or pre-award interest and the rate of interest to be applied in the action or distribution proceeding, except as provided in subdivision (b), are matters of the substantive law governing the right to recovery under the conflict-of-laws rules of this state.

(b) The court or arbitrator shall increase or decrease the amount of prejudgment or pre-award interest otherwise payable in a judgment or award in foreign money to the extent required by the law of this state governing a failure to make or accept an offer of settlement or offer of judgment, or conduct by a party or its attorney causing undue delay or expense.

(c) A judgment or award on a foreign-money claim bears interest at the rate applicable to judgments of this state.

676.10. (a) If an action is brought to enforce a judgment of another jurisdiction expressed in a foreign money and the judgment is recognized in this state as enforceable, the enforcing judgment shall be entered as provided in Section 676.7, whether or not the foreign judgment confers an option to pay in an equivalent amount of United States dollars.

(b) A foreign judgment may be enforced in accordance with Title 11 (commencing with Section 1710.10) of Part 3.

(c) A satisfaction or partial payment made upon the foreign judgment, on proof thereof, shall be credited against the amount of foreign money specified in the judgment, notwithstanding the entry of judgment in this state.

(d) A judgment entered on a foreign-money claim only in United States dollars in another state shall be enforced in this state in United States dollars only.

676.11. (a) Computations under this section are for the limited purposes of the section and do not affect computation of the United States dollar equivalent of the money of the judgment for the purpose of payment.

(b) For the limited purpose of facilitating the enforcement of provisional remedies in an action, the value in United States dollars of assets to be seized or restrained pursuant to a writ of attachment, garnishment, execution, or other legal process, the amount of United States dollars at issue for assessing costs, or the amount of United States dollars involved for a surety bond or other court-required undertaking, shall be ascertained as provided in subdivisions (c) and (d).

(c) A party seeking process, costs, bond, or other undertaking under subdivision (b) shall compute in United States dollars the amount of the foreign money claimed from a bank-offered spot rate prevailing at or near the close of business on the banking day next preceding the filing of a request or application for the issuance of process or for the determination of costs, or an application for a bond or other court-required undertaking.

(d) A party seeking the process, costs, bond, or other undertaking under subdivision (b) shall file with each request or application an affidavit or certificate executed in good faith by its counsel or a bank officer, stating the market quotation used and how it was obtained, and setting forth the calculation. Affected court officials incur no liability, after a filing of the affidavit or certificate, for acting as if the judgment were in the amount of United States dollars stated in the affidavit or certificate.

676.12. (a) If, after an obligation is expressed or a loss is incurred in a foreign money, the country issuing or adopting that money substitutes a new money in place of that money, the obligation or the loss is treated as if expressed or incurred in the new money at the rate of conversion the issuing country establishes for the payment of like obligations or losses denominated in the former money.

(b) If substitution under subdivision (a) occurs after a judgment

or award is entered on a foreign-money claim, the court or arbitrator shall amend the judgment or award by a like conversion of the former money.

676.13. Unless displaced by particular provisions of this title, the principles of law and equity, including the law merchant, and the law relative to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating causes supplement its provisions.

676.14. This title shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this title among states enacting it.

676.15. If any provision of this title or its application to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of this title which can be given effect without the invalid provision or application, and to this end the provisions of this title are severable.

676.16. This title applies to actions and distribution proceedings commenced on or after January 1, 1992.

SEC. 2. Section 2101 of the Code of Civil Procedure is amended to read:

2101. (a) Notices of liens, certificates, and other notices affecting federal tax liens or other federal liens must be filed in accordance with this title.

(b) Notices of liens upon real property for obligations payable to the United States and certificates and notices affecting the liens shall be filed for record in the office of the recorder of the county in which the real property subject to the liens is situated.

(c) Notices of federal liens upon personal property, whether tangible or intangible, for obligations payable to the United States and certificates and notices affecting the liens shall be filed as follows:

(1) If the person against whose interest the lien applies is a corporation or a partnership whose principal executive office is in this state, as these entities are defined in the internal revenue laws of the United States, in the office of the Secretary of State.

(2) If the person against whose interest the lien applies is a trust that is not covered by paragraph (1), in the office of the Secretary of State.

(3) If the person against whose interest the lien applies is the estate of a decedent, in the office of the Secretary of State.

(4) In all other cases, in the office of the recorder of the county where the person against whose interest the lien applies resides at the time of filing of the notice of lien.

CHAPTER 933

An act to amend Section 22300 of the Public Contract Code, relating to public contracts.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 22300 of the Public Contract Code is amended to read:

22300. (a) Provisions shall be included in any invitation for bid and in any contract documents to permit the substitution of securities for any moneys withheld by a public agency to ensure performance under a contract, provided that substitution of securities provisions shall not be required in contracts in which there will be financing provided by the Farmers Home Administration of the United States Department of Agriculture pursuant to the Consolidated Farm and Rural Development Act (7 U.S.C. Sec. 1921 et seq.), and where federal regulations or policies, or both, do not allow the substitution of securities. At the request and expense of the contractor, securities equivalent to the amount withheld shall be deposited with the public agency, or with a state or federally chartered bank in California as the escrow agent, who shall then pay such moneys to the contractor. Upon satisfactory completion of the contract, the securities shall be returned to the contractor.

(b) Alternatively, the contractor may request and the owner shall make payment of retentions earned directly to the escrow agent at the expense of the contractor. At the expense of the contractor, the contractor may direct the investment of the payments into securities and the contractor shall receive the interest earned on the investments upon the same terms provided for in this section for securities deposited by the contractor. Upon satisfactory completion of the contract, the contractor shall receive from the escrow agent all securities, interest, and payments received by the escrow agent from the owner, pursuant to the terms of this section. The contractor shall pay to each subcontractor, not later than 20 days of receipt of the payment, the respective amount of interest earned, net of costs attributed to retention withheld from each subcontractor, on the amount of retention withheld to insure the performance of the contractor.

(c) Securities eligible for investment under this section shall include those listed in Section 16430 of the Government Code, bank or savings and loan certificates of deposit, interest bearing demand deposit accounts, standby letters of credit, or any other security mutually agreed to by the contractor and the public agency.

The contractor shall be the beneficial owner of any securities substituted for moneys withheld and shall receive any interest

thereon.

Failure to include these provisions in bid and contract documents shall void any provisions for performance retentions in a public agency contract.

For purposes of this section, the term "public agency" shall include, but shall not be limited to, chartered cities.

(d) The Legislature hereby declares that the provisions of this section are of statewide concern and are necessary to encourage full participation by contractors in public contract procedures.

(e) The escrow agreement used hereunder shall be null, void, and unenforceable unless it is substantially similar to the following form:

ESCROW AGREEMENT FOR
SECURITY DEPOSITS IN LIEU OF RETENTION

This Escrow Agreement is made and entered into by and between

_____
_____ whose address is _____
_____ hereinafter called "Owner,"
_____ whose address is _____
_____ hereinafter called "Contractor"
and
_____ whose address is _____
_____ hereinafter called "Escrow Agent."

For the consideration hereinafter set forth, the Owner, Contractor, and Escrow Agent agree as follows:

(1) Pursuant to Section 22200 of the Public Contract Code of the State of California, Contractor has the option to deposit securities with Escrow Agent as a substitute for retention earnings required to be withheld by Owner pursuant to the Construction Contract entered into between the Owner and Contractor for _____ in the amount of _____ dated _____ (hereinafter referred to as the "Contract"). Alternatively, on written request of the contractor, the owner shall make payments of the retention earnings directly to the escrow agent. When Contractor deposits the securities as a substitute for Contract earnings, the Escrow Agent shall notify the Owner within 10 days of the deposit. The market value of the securities at the time of the substitution shall be at least equal to the cash amount then required to be withheld as retention under the terms of the Contract between the Owner and Contractor. Securities shall be held in the name of _____, and shall designate the Contractor as the beneficial owner.

(2) The Owner shall make progress payments to the Contractor for such funds which otherwise would be withheld from progress payments pursuant to the Contract provisions, provided that the Escrow Agent holds securities in the form and amount specified above.

(3) When the owner makes payment of retentions earned directly

to the escrow agent, the escrow agent shall hold them for the benefit of the contractor until such time as the escrow created under this contract is terminated. The contractor may direct the investment of the payments into securities. All terms and conditions of this agreement and the rights and responsibilities of the parties shall be equally applicable and binding when the owner pays the escrow agent directly.

(4) Contractor shall be responsible for paying all fees for the expenses incurred by Escrow Agent in administering the Escrow Account and all expenses of the Owner. These expenses and payment terms shall be determined by the Owner, Contractor and Escrow Agent.

(5) The interest earned on the securities or the money market accounts held in escrow and all interest earned on that interest shall be for the sole account of Contractor and shall be subject to withdrawal by Contractor at any time and from time to time without notice to the Owner.

(6) Contractor shall have the right to withdraw all or any part of the principal in the Escrow Account only by written notice to Escrow Agent accompanied by written authorization from the Owner to the Escrow Agent that Owner consents to the withdrawal of the amount sought to be withdrawn by Contractor.

(7) The Owner shall have a right to draw upon the securities in the event of default by the Contractor. Upon seven days' written notice to the Escrow Agent from the owner of the default, the Escrow Agent shall immediately convert the securities to cash and shall distribute the cash as instructed by the Owner.

(8) Upon receipt of written notification from the Owner certifying that the Contract is final and complete, and that the Contractor has complied with all requirements and procedures applicable to the Contract, Escrow Agent shall release to Contractor all securities and interest on deposit less escrow fees and charges of the Escrow Account. The escrow shall be closed immediately upon disbursement of all moneys and securities on deposit and payments of fees and charges.

(9) Escrow Agent shall rely on the written notifications from the Owner and the Contractor pursuant to Sections (4) to (6), inclusive, of this agreement and the Owner and Contractor shall hold Escrow Agent harmless from Escrow Agent's release and disbursement of the securities and interest as set forth above.

(10) The names of the persons who are authorized to give written notice or to receive written notice on behalf of the Owner and on behalf of Contractor in connection with the foregoing, and exemplars of their respective signatures are as follows:

On behalf of Owner:

Title

Name

Signature

Address

On behalf of Contractor:

Title

Name

Signature

Address

On behalf of Escrow Agent:

Title

Name

Signature

Address

At the time the Escrow Account is opened, the Owner and Contractor shall deliver to the Escrow Agent a fully executed counterpart of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement by their proper officers on the date first set forth above.

Owner

Title

Name

Signature

Contractor

Title

Name

Signature

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 934

An act to amend Section 6154 of the Business and Professions Code, Sections 750, 750.4, 1871.4, 1872, 1872.3, 1872.83, 1877.1, 1877.3, 1877.5, and 11880 of, and to amend and renumber Section 11670 of, the Insurance Code, to amend Sections 62.6, 4903, 4906, 5401.7, and 5501 of the Labor Code, and to amend Section 549 of the Penal Code, relating to business practices, and making an appropriation therefor.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 6154 of the Business and Professions Code, as amended by Chapter 116 of the Statutes of 1991, is amended to read:

6154. Any contract for professional services secured by any attorney at law or law firm in this state through the services of a runner or capper is void. In any action against any attorney or law firm under the Unfair Practices Act, Chapter 4 (commencing with Section 17000) of Division 7, or Chapter 5 (commencing with Section 17200) of Division 7, any judgment shall include an order divesting the attorney or law firm of any fees and other compensation received pursuant to any such void contract. Those fees and compensation shall be recoverable as additional civil penalties under Chapter 4 (commencing with Section 17000) or Chapter 5 (commencing with Section 17200) of Division 7.

SEC. 2. Section 750 of the Insurance Code, as added by Section 9 of Chapter 116 of the Statutes of 1991, is amended to read:

750. (a) Except as provided in Section 750.5, any person acting individually or through his or her employees or agents, who engages in the practice of processing, presenting, or negotiating claims, including claims under policies of insurance, and who offers, delivers, receives, or accepts any rebate, refund, commission, or other consideration, whether in the form of money or otherwise, as compensation or inducement to or from any person for the referral or procurement of clients, cases, patients, or customers, is guilty of a crime.

(b) (1) A violation of subdivision (a) is punishable upon a first conviction by imprisonment in the county jail for not more than one year, or by imprisonment in the state prison, or by a fine not exceeding ten thousand dollars ($10,000), or by both that imprisonment and fine.

(2) A second or subsequent conviction is punishable by imprisonment in the state prison.

(c) Nothing in this section shall prohibit a licensed collection or lien agency from receiving a commission on the collection of delinquent debts nor prohibits the agency from paying its employees

a commission for obtaining clients seeking collection on delinquent debts.

SEC. 3. Section 750.4 of the Insurance Code, as added by Chapter 116 of the Statutes of 1991, is amended to read:

750.4. Section 750 of the Insurance Code, Section 3215 of the Labor Code, or Section 549 of the Penal Code shall not apply to any person, corporation, partnership, association, or firm, which both of the following:

(a) Operating on behalf of an insurer or self-insured person, company, association, or group.

(b) Operating pursuant to and within the scope of a certificate of consent issued pursuant to Section 3702.1 of the Labor Code or pursuant to and within the scope of a license issued pursuant to Article 3 (commencing with Section 14000) of Chapter 1 of Division 5.

SEC. 4. Section 1871.4 of the Insurance Code, as added by Chapter 116 of the Statutes of 1991, is amended to read:

1871.4. (a) It is unlawful to do any of the following:

(1) Make or cause to be made any knowingly false or fraudulent material statement or material representation for the purpose of obtaining or denying any compensation, as defined in Section 3207 of the Labor Code.

(2) Present or cause to be presented any knowingly false or fraudulent written or oral material statement in support of, or in opposition to, any claim for compensation for the purpose of obtaining or denying any compensation, as defined in Section 3207 of the Labor Code.

(3) Knowingly assist, abet, solicit, or conspire with any person who engages in an unlawful act under this section.

(4) Make or cause to be made any knowingly false or fraudulent statements with regard to entitlement to benefits with the intent to discourage an injured worker from claiming benefits or pursuing a claim.

For the purposes of this subdivision, "statement" includes, but is not limited to, any notice, proof of injury, bill for services, payment for services, hospital or doctor records, X-ray, test results, medical-legal expense as defined in Section 4620 of the Labor Code, other evidence of loss, injury, or expense, or payment.

(b) Every person who violates any provision of this section shall be punished by imprisonment in county jail for one year, or in the state prison, for two, three, or five years, or by a fine not exceeding fifty thousand dollars ($50,000) or double the value of the fraud, whichever is greater, or by both imprisonment and fine.

(c) Any person who violates subdivision (a) and who has a prior felony conviction of the offense set forth in that subdivision, in Section 1871.1, or in Section 548 of the Penal Code, shall receive a two-year enhancement for each prior conviction in addition to the sentence provided in subdivision (b). The existence of any fact that would subject a person to a penalty enhancement shall be alleged in

the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

SEC. 5. Section 1872 of the Insurance Code, as amended by Chapter 116 of the Statutes of 1991, is amended to read:

1872. There is created within the department a Bureau of Fraudulent Claims to enforce the provisions of Sections 1871.1 and 1871.4, and Section 549 of the Penal Code, and to administer the provisions of Article 3 (commencing with Section 1873).

SEC. 6. Section 1872.3 of the Insurance Code, as amended by Chapter 116 of the Statutes of 1991, is amended to read:

1872.3. (a) If by its own inquiries or as a result of complaints, the Bureau of Fraudulent Claims has reason to believe that a person has engaged in, or is engaging in, an act or practice that violates Section 1871.1 or 1871.4, or Section 549 of the Penal Code, the commissioner in his or her discretion (1) may make those public or private investigations within or outside of this state that he or she deems necessary to determine whether any person has violated or is about to violate any provision of Section 1871.1 or 1871.4, or Section 549 of the Penal Code, or to aid in the enforcement of this chapter, and (2) may publish information concerning any violation of this chapter.

(b) For purposes of any investigation under this section, the commissioner or any officer designated by the commissioner may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records that the commissioner deems relevant or material to the inquiry, as provided by Section 12924.

(c) If any matter that the commissioner seeks to obtain by request is located outside the state, the person so requested may make it available to the commissioner or his or her representative to be examined at the place where it is located. The commissioner may designate representatives, including officials of the state in which the matter is located, to inspect the matter on his or her behalf, and he or she may respond to similar requests from officials of other states.

(d) Except as provided in subdivision (e), the department's papers, documents, reports, or evidence relative to the subject of an investigation under this section shall not be subject to public inspection for so long a period as the commissioner deems reasonably necessary to complete the investigation, to protect the person investigated from unwarranted injury, or to serve the public interest. Furthermore, those papers, documents, reports, or evidence shall not be subject to subpoena or subpoena duces tecum until opened for public inspection by the commissioner, unless the commissioner otherwise consents or, after notice to the commissioner and a hearing, the superior court determines that the public interest and any ongoing investigation by the commissioner would not be unnecessarily jeopardized by compliance with the subpoena duces

tecum.

(e) The Bureau of Fraudulent Claims shall furnish all papers, documents, reports, complaints, or other facts or evidence to any police, sheriff, or other law enforcement agency, when so requested, and shall assist and cooperate with those law enforcement agencies.

SEC. 7. Section 1872.83 of the Insurance Code, as added by Chapter 116 of the Statutes of 1991, is amended to read:

1872.83. (a) The commissioner shall ensure that the Bureau of Fraudulent Claims aggressively pursues all reported incidents of probable workers' compensation fraud, as defined in subdivision (a) of Section 1871.4 and Section 549 of the Penal Code, and forwards to the appropriate disciplinary body the names, along with all supporting evidence, of any individuals licensed under the Business and Professions Code who are suspected of actively engaging in fraudulent activity. The Bureau of Fraudulent Claims shall forward to the Insurance Commissioner or the Director of Industrial Relations, as appropriate, the name, along with all supporting evidence, of any insurer, as defined in subdivision (c) of Section 1877.1, suspected of actively engaging in the fraudulent denial of claims.

(b) To fund increased investigation and prosecution of workers' compensation fraud, there shall be an annual assessment as follows:

(1) The aggregate amount of the assessment shall be determined by the Fraud Assessment Commission, which is hereby established. The commission shall be composed of five members consisting of two representatives of self-insured employers, one representative of insured employers, one representative of workers' compensation insurers, and the President of the State Compensation Insurance Fund, or his or her designee.

The Governor shall appoint members representing self-insured employers, insured employers, and insurers. The term of office of members of the commission shall be four years, and a member shall hold office until the appointment of a successor. However, the initial terms of three of the members appointed by the Governor shall expire, respectively, on December 31, 1992, December 31, 1993, and December 31, 1994. The President of the State Compensation Insurance Fund shall be an ex officio, voting member of the commission. Members of the commission shall receive one hundred dollars ($100) for each day of actual attendance at commission meetings and other official commission business, and shall also receive their actual and necessary traveling expenses incurred in the performance of commission duties. Payment of per diem and travel expenses shall be made from the Workers' Compensation Fraud Account in the Insurance Fund, established in paragraph (4), upon appropriation by the Legislature.

(2) In determining the aggregate amount of the assessment, the Fraud Assessment Commission shall consider the advice and recommendations of the Bureau of Fraudulent Claims and the commissioner.

(3) The aggregate amount of the assessment shall be collected by the Director of Industrial Relations pursuant to Section 62.6 of the Labor Code. The Fraud Assessment Commission shall annually advise the Director of Industrial Relations, not later than March 15, of the aggregate amount to be assessed for the next fiscal year.

(4) The amount collected, together with the fines collected for violations of the unlawful acts specified in Section 1871.4 and Section 549 of the Penal Code, shall be deposited in the Workers' Compensation Fraud Account in the Insurance Fund, which is hereby created, and may be used, upon appropriation by the Legislature, only for enhanced workers' compensation fraud investigation and prosecution as provided in this section.

(c) (1) For each fiscal year, the total amount of revenues derived from the assessment pursuant to subdivision (b) shall, together with amounts collected pursuant to fines imposed for unlawful acts described in Section 1871.4 and Section 549 of the Penal Code, not be less than three million dollars ($3,000,000). Any funds appropriated by the Legislature pursuant to subdivision (b) that are not expended in the fiscal year for which they have been appropriated shall be applied to satisfy for the immediately following fiscal year the minimum total amount required by this subdivision.

(2) This subdivision shall cease to be operative on January 1, 1994, unless a later enacted statute, enacted prior to January 1, 1994, deletes or extends that date.

(d) After incidental expenses, 50 percent of the funds to be used for the purposes of this section shall be provided to the Bureau of Fraudulent Claims of the Department of Insurance for enhanced investigative efforts and 50 percent of the funds shall be distributed to district attorneys, pursuant to a determination by the commissioner with the advice and consent of the bureau and the Fraud Assessment Commission, as to the most effective distribution of moneys for purposes of the investigation and prosecution of workers' compensation insurance fraud cases. Each district attorney seeking a portion of the funds shall submit to the commissioner an application setting forth in detail their proposed use of any funds provided. Any district attorney receiving funds pursuant to this subdivision shall submit an annual report to the commissioner with respect to the success of their efforts. Upon receipt, the commissioner shall provide copies to the bureau and the Fraud Assessment Commission of any application, annual report, or other documents with respect to the allocation of money pursuant to this subdivision. These documents shall be public records.

SEC. 8. Section 1877.1 of the Insurance Code, as added by Chapter 116 of the Statutes of 1991, is amended to read:

1877.1. The following definitions govern the construction of this article, unless the context requires otherwise:

(a) "Authorized governmental agency" means the district attorney of any county, the office of the Attorney General, the Department of Insurance, the Department of Industrial Relations,

and any licensing agency governed by the Business and Professions Code.

(b) "Relevant" means having a tendency to make the existence of any fact that is of consequence to the investigation or determination of an issue more probable or less probable than it would be without the information.

(c) "Insurer" means an insurer admitted to transact workers' compensation insurance in this state, the State Compensation Insurance Fund, an employer that has secured a certificate of consent to self-insure pursuant to subdivision (b) or (c) of Section 3700 of the Labor Code, or a third-party administrator that has secured a certificate pursuant to Section 3702.1 of the Labor Code.

(d) Information shall be deemed important if, within the sole discretion of the authorized governmental agency, that information is requested by that authorized governmental agency.

SEC. 9. Section 1877.3 of the Insurance Code, as added by Chapter 116 of the Statutes of 1991, is amended to read:

1877.3. (a) Upon written request to an insurer by an authorized governmental agency, an insurer, or agent authorized by that insurer to act on behalf of the insurer, shall release to the requesting authorized governmental agency any or all relevant information deemed important to the authorized governmental agency that the insurer may possess relating to any specific workers' compensation insurance fraud investigation.

(b) (1) When an insurer knows or reasonably believes it knows the identity of a person whom it has reason to believe committed a fraudulent act relating to a workers' compensation insurance claim or has knowledge of such a fraudulent act that is reasonably believed not to have been reported to an authorized governmental agency, then, for the purpose of notification and investigation, the insurer, or agent authorized by an insurer to act on its behalf, shall notify the local district attorney's office or the Bureau of Fraudulent Claims of the Department of Insurance, and may notify any other authorized governmental agency of that knowledge or reasonable belief and provide any additional information in accordance with subdivision (a). The insurer shall state in its notice the basis of its knowledge or reasonable belief.

(2) Insurers shall use a form prescribed by the department for the purposes of reporting suspected fraudulent workers' compensation acts pursuant to this subdivision.

(3) Nothing in this subdivision shall abrogate or impair the rights or powers created under subdivision (a).

(c) The authorized governmental agency provided with information pursuant to subdivision (a) or (b) may release or provide that information in a confidential manner to any other authorized governmental agency for purposes of investigation, prosecution, or prevention of insurance fraud.

(d) An insurer providing information to an authorized governmental agency pursuant to this section shall provide the

information within a reasonable time, but not to exceed 30 days from the day on which the duty arose.

SEC. 10. Section 1877.5 of the Insurance Code, as added by Chapter 116 of the Statutes of 1991, is amended to read:

1877.5. No insurer, or agent authorized by an insurer to act on its behalf, who furnishes information, written or oral, pursuant to this article, and no authorized governmental agency or its employees who (a) furnishes or receives information, written or oral, pursuant to this article, or (b) assists in any investigation of a suspected violation of Section 1871.1 or 1871.4 or Section 549 of the Penal Code conducted by an authorized governmental agency, shall be subject to any civil liability in a cause or action of any kind where the insurer, authorized agent, or authorized governmental agency acts in good faith, without malice, and reasonably believes that the action taken was warranted by the then known facts, obtained by reasonable efforts. Nothing in this chapter is intended to, nor does in any way or manner, abrogate or lessen the existing common law or statutory privileges and immunities of an insurer, agent authorized by that insurer to act on its behalf, or any authorized governmental agency or its employees.

SEC. 11. Section 11670 of the Insurance Code, as added by Chapter 116 of the Statutes of 1991, is amended and renumbered to read:

11760. (a) Any person who willfully misrepresents any fact in order to obtain workers' compensation insurance at less than the proper rate for that insurance shall be punished by imprisonment in county jail for one year, or in the state prison, for two, three, or five years, or by a fine not exceeding fifty thousand dollars ($50,000), or double the value of the fraud, whichever is greater, or by both imprisonment and fine.

(b) Any person who violates subdivision (a) and who has a prior felony conviction of the offense set forth in that subdivision shall receive a two-year enhancement for each prior conviction in addition to the sentence provided in subdivision (a). The existence of any fact that would subject a person to a penalty enhancement shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

SEC. 12. Section 11880 of the Insurance Code, as amended by Chapter 116 of the Statutes of 1991, is amended to read:

11880. (a) Any person who willfully misrepresents any fact in order to obtain insurance from the fund at less than the proper rate for that insurance shall be punished by imprisonment in county jail for one year, or in the state prison, for two, three, or five years, or by a fine not exceeding fifty thousand dollars ($50,000), or double the value of the fraud, whichever is greater, or by both imprisonment and fine.

(b) Any person who violates subdivision (a) and who has a prior felony conviction of the offense set forth in that subdivision shall receive a two-year enhancement for each prior conviction in addition to the sentence provided in subdivision (a). The existence of any fact that would subject a person to a penalty enhancement shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

SEC. 13. Section 62.6 of the Labor Code, as added by Chapter 116 of the Statutes of 1991, is amended to read:

62.6. The director shall, in addition to the assessment levied pursuant to Section 62.5, assess a surcharge as necessary to collect the aggregate amount determined by the Fraud Assessment Commission pursuant to Section 1872.83 of the Insurance Code. The surcharge shall be collected on the same basis and in the same manner as the assessment levied pursuant to Section 62.5, but shall be separately stated and identified as the "State Fraud Investigation and Prosecution Surcharge." Revenues derived from the surcharge shall be deposited in the Workers' Compensation Fraud Account in the Insurance Fund and shall only be expended, upon appropriation by the Legislature, for the investigation and prosecution of workers' compensation fraud as prescribed by Section 1872.83 of the Insurance Code.

SEC. 14. Section 4903 of the Labor Code, as amended by Chapter 116 of the Statutes of 1991, is amended to read:

4903. The appeals board may determine, and allow as liens against any sum to be paid as compensation, any amount determined as hereinafter set forth in subdivisions (a) through (i). If more than one such lien be allowed, the appeals board may determine the priorities, if any, between the liens allowed. The liens which may be allowed hereunder are as follows:

(a) A reasonable attorney's fee for legal services pertaining to any claim for compensation either before the appeals board or before any of the appellate courts, and the reasonable disbursements in connection therewith. No fee for legal services shall be awarded to any representative who is not an attorney, except with respect to those claims for compensation for which an application, pursuant to Section 5501, has been filed with the appeals board on or before December 31, 1991, or for which a disclosure form, pursuant to Section 4906, has been sent to the employer, or insurer or third-party administrator, if either is known, on or before December 31, 1991.

(b) The reasonable expense incurred by or on behalf of the injured employee, as provided by Article 2 (commencing with Section 4600) and, to the extent the employee is entitled to reimbursement under Section 4621, medical-legal expenses as provided by Article 2.5 (commencing with Section 4620) of Chapter 2 of Part 2.

(c) The reasonable value of the living expenses of an injured employee or of his or her dependents, subsequent to the injury.

(d) The reasonable burial expenses of the deceased employee, not to exceed the amount provided for by Section 4701.

(e) The reasonable living expenses of the spouse or minor children of the injured employee, or both, subsequent to the date of the injury, where the employee has deserted or is neglecting his or her family. These expenses shall be allowed in such proportion as the appeals board deems proper, under application of the spouse, guardian of the minor children, or the assignee, pursuant to subdivision (a) of Section 11477 of the Welfare and Institutions Code, of the spouse, a former spouse, or minor children.

(f) The amount of unemployment compensation disability benefits which have been paid under or pursuant to the Unemployment Insurance Code in those cases where, pending a determination under this division there was uncertainty whether such benefits were payable under the Unemployment Insurance Code or payable hereunder; provided, however, that any lien under this subdivision shall be allowed and paid as provided in Section 4904.

(g) The amount of unemployment compensation benefits and extended duration benefits paid to the injured employee for the same day or days for which he or she receives, or is entitled to receive, temporary total disability indemnity payments under this division; provided, however, that any lien under this subdivision shall be allowed and paid as provided in Section 4904.

(h) The amount of indemnification granted pursuant to Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code.

(i) The amount of compensation, including expenses of medical treatment, and recoverable costs which have been paid by the Asbestos Workers' Account pursuant to the provisions of Chapter 11 (commencing with Section 4401) of Part 1.

SEC. 15. Section 4906 of the Labor Code is amended to read:

4906. (a) No charge, claim, or agreement for the legal services or disbursements mentioned in subdivision (a) of Section 4903, or for the expense mentioned in subdivision (b) of Section 4903, is enforceable, valid, or binding in excess of a reasonable amount. The appeals board may determine what constitutes a reasonable amount.

(b) No attorney or agent shall demand or accept any fee from an employee or dependent of an employee for the purpose of representing the employee or dependent of an employee in any proceeding of the division, appeals board, or any appellate procedure related thereto until the amount of the fee has been approved or set by the appeals board.

(c) Any fee agreement shall be submitted to the appeals board for approval within 10 days after the agreement is made.

(d) In establishing a reasonable attorney's fee, consideration shall be given to the responsibility assumed by the attorney, the care exercised in representing the applicant, the time involved, and the

results obtained.

(e) At the initial consultation, an attorney shall furnish the employee a written disclosure form promulgated by the administrative director which shall clearly and prominently describe the procedures available to the injured employee or his or her dependents. The disclosure form shall describe this section, the range of attorney's fees customarily approved by the appeals board, and the attorney's fees provisions of Section 4064 and the extent to which an employee may receive compensation without incurring attorney's fees. The disclosure form shall include the telephone number of the Office of Benefit Assistance and Enforcement together with the statement that the employee may receive answers at that number to questions concerning entitlement to compensation or the procedures to follow to receive compensation. A copy of the disclosure form shall be signed by the employee and the attorney and sent to the employer, or insurer or third-party administrator, if either is known, by the attorney within 15 days of the employee's and attorney's execution thereof.

(f) The disclosure form set forth in subdivision (e) shall contain, prominently stated, the following statement:

"Any person who makes or causes to be made any knowingly false or fraudulent material statement or representation for the purpose of obtaining or denying worker's compensation benefits or payments is guilty of a felony."

SEC. 16. Section 5401.7 of the Labor Code, as added by Chapter 116 of the Statutes of 1991, is amended to read:

5401.7. The forms set forth in Sections 5401, 5401.5, and 5401.6 shall contain, prominently stated, the following statement:

"Any person who makes or causes to be made any knowingly false or fraudulent material statement or material representation for the purpose of obtaining or denying workers' compensation benefits or payments is guilty of a felony."

SEC. 17. Section 5501 of the Labor Code is amended to read:

5501. The application may be filed with the appeals board by any party in interest, his attorney, or other representative authorized in writing. A representative who is not an attorney licensed by the State Bar of this state shall notify the appeals board in writing that he or she is not an attorney licensed by the State Bar of this state. Upon the filing of the application, the appeals board shall, where the applicant is represented by an attorney or other representative, serve a conformed copy of the application showing the date of filing and the case number upon applicant's attorney or representative. The applicant's attorney or representative shall, upon receipt of the conformed copy, forthwith serve a copy of the conformed application upon all other parties to the claim. If the applicant is unrepresented, a copy thereof shall forthwith be served upon all adverse parties by the appeals board.

SEC. 18. Section 549 of the Penal Code, as added by Section 35 of Chapter 116 of the Statutes of 1991, is amended to read:

549. Any firm, corporation, partnership, or association, or any person acting in his or her individual capacity, or in his or her capacity as a public or private employee, who solicits or refers any business to any individual or entity with the knowledge that, or with reckless disregard for whether, the individual or entity for whom the solicitation or referral is made, or the individual or entity who is solicited or referred, intends to violate Section 1871.1 or 1871.4 of the Insurance Code is guilty of a crime, punishable upon a first conviction by imprisonment in the county jail for not more than one year or by imprisonment in the state prison for 16 months 2 or 3 years, or by a fine not exceeding ten thousand dollars ($10,000), or by both that fine and imprisonment. A second or subsequent conviction is punishable by imprisonment in the state prison.

SEC. 19. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 20. (a) The sum of one million five hundred thousand dollars ($1,500,000) is hereby appropriated from the General Fund to the Workers' Compensation Fraud Account in the Insurance Fund, as a loan, and is hereby appropriated from that account for the purposes of Section 1872.83 of the Insurance Code. The Department of Insurance shall reimburse the amount of the transfer, plus interest at the same rate of interest as that earned by moneys in the Pooled Money Investment Account during the term of the loan, from the proceeds of the assessment collected pursuant to Section 62.6 of the Labor Code. The loan, plus interest, shall be repaid in full no later than one year from the date on which the loan was made.

(b) The Fraud Assessment Commission, in determining the aggregate amount of the assessment for the 1992-93 fiscal year pursuant to subdivision (b) of Section 1872.83 shall consider the need for repayment of the loan provided in subdivision (a) and the financing of Section 1872.83 in the 1992-93 fiscal year.

CHAPTER 935

An act to amend Section 11713.1 of the Vehicle Code, relating to vehicles.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 11713.1 of the Vehicle Code is amended to read:

11713.1. It is a violation of this code for the holder of any dealer's license issued under this article to do any of the following:

(a) Advertise any specific vehicle for sale without identifying the vehicle by either its vehicle identification number or license number.

(b) Advertise the total price of a vehicle without including all costs to the purchaser at time of sale, except sales tax, vehicle registration fees, certificate of compliance or noncompliance fees not exceeding twenty-five dollars ($25) pursuant to any statute, finance charges, and any dealer documentary preparation charge. The dealer documentary preparation charge shall not exceed thirty-five dollars ($35).

(c) Exclude from the newspaper display advertisement of a vehicle for sale that there will be added to the advertised total price at the time of sale, charges for sales tax, vehicle registration fees, the fee charged by the state for the issuance of any certificate of compliance or noncompliance pursuant to any statute, finance charges, and any dealer documentary preparation charge.

For purposes of this subdivision, "newspaper display advertisement" means any advertisement in a newspaper which is two or more newspaper columns in width or one newspaper column in width and more than seven inches in length.

(d) Represent the dealer documentary preparation charge or certificate of compliance or noncompliance fee, as a governmental fee.

(e) Fail to sell a vehicle to any person at the advertised total price, exclusive of sales tax, vehicle registration fees, the fee charged by the state for the issuance of any certificate of compliance or noncompliance pursuant to any statute, finance charges, mobilehome escrow fees, the amount of any city, county, or city and county imposed fee or tax for a mobilehome, and any dealer documentary preparation charge, which charges shall not exceed thirty-five dollars ($35) for the documentary preparation charge and twenty-five dollars ($25) for the certificate of compliance or noncompliance pursuant to any statute, while the vehicle remains unsold, unless the advertisement states the advertised total price is good only for a specified time and the time has elapsed.

(f) Advertise for sale as new any new vehicle of a line-make for which the dealer does not hold a franchise.

This subdivision does not apply to any transaction involving a mobilehome as defined in Section 396, a recreational vehicle as defined in Section 18010.5 of the Health and Safety Code, a commercial coach as defined in Section 18012 of the Health and Safety Code, an off-highway motor vehicle subject to identification as defined in Section 38012, or a commercial vehicle as defined in Section 260.

(g) Sell a park trailer, as defined in subdivision (f) of Section 799.24 of the Civil Code, without disclosing in writing to the purchaser that a park trailer is required to be moved by a transporter or a licensed manufacturer or dealer under a permit issued by the Department of Transportation or a local authority with respect to highways under their respective jurisdictions.

(h) Advertise free merchandise, gifts, or services provided by a dealer contingent on the purchase of a vehicle. The term "free" includes merchandise or services offered for sale at a price less than the seller's cost of the merchandise or services.

(i) Advertise vehicles and related goods or services with intent not to supply reasonably expectable demand, unless the advertisement discloses a limitation of quantity.

(j) Use the term "rebate" or similar words such as "cash back" in advertising the sale of a vehicle unless the rebate is expressed in a specific dollar amount and is in fact a rebate offered by the vehicle manufacturer or distributor directly to the retail purchaser of the vehicle or to the assignee of the retail purchaser.

(k) Require a person to pay a higher price for a vehicle and related goods or services for receiving advertised credit terms than the cash price the same person would have to pay to purchase the same vehicle and related goods or services. For the purpose of this subdivision, "cash price" has the meaning as defined in subdivision (e) of Section 2981 of the Civil Code.

(*l*) Advertise a guaranteed trade-in allowance unless the guarantee is provided by the manufacturer or distributor.

(m) Misrepresent the authority of a salesperson, representative, or agent to negotiate the final terms of a transaction.

(n) (1) To advertise that the selling price of a vehicle is above, below, or at either of the following:

(A) The manufacturer's or distributor's invoice price to a dealer.

(B) A dealer's cost.

(2) This subdivision does not apply to any of the following:

(A) Any communication occurring during face-to-face negotiations for the purchase of a specific vehicle.

(B) Any communication between a dealer and a prospective commercial purchaser that is not disseminated to the general public. For purposes of this subparagraph, a "commercial purchaser" means a dealer, lessor, lessor-retailer, manufacturer, remanufacturer, distributor, financial institution, governmental entity, or person who

purchases 10 or more vehicles during a year.

(o) Violate any law prohibiting bait and switch advertising, including, but not limited to, the guides against bait advertising set forth in Part 238 (commencing with Section 238) of Title 16 of the Code of Federal Regulations, as those regulations read on January 1, 1988.

(p) Make any untrue or misleading statement indicating that a vehicle is equipped with all the factory installed optional equipment the manufacturer offers, including, but not limited to, a false statement that a vehicle is "fully factory equipped."

(q) Affix on any new vehicle a supplemental price sticker containing a price that represents the dealer's asking price which exceeds the manufacturer's suggested retail price unless all of the following occur:

(1) The supplemental sticker clearly and conspicuously discloses in the largest print appearing on the sticker, other than the print size used for the dealer's name, that the supplemental sticker price is the dealer's asking price, or words of similar import, and that it is not the manufacturer's suggested retail price.

(2) The supplemental sticker clearly and conspicuously discloses the manufacturer's suggested retail price.

(3) The supplemental sticker lists each item which is not included in the manufacturer's suggested retail price, and discloses the additional price of each item. If the supplemental sticker price is greater than the sum of the manufacturer's suggested retail price and the price of the items added by the dealer, then the supplemental sticker price shall set forth that difference and describe it as "added mark-up."

(r) Advertise any underselling claim, such as "we have the lowest prices" or "we will beat any dealer's price," unless the dealer has conducted a recent survey showing that the dealer sells its vehicles at lower prices than any other licensee in its trade area and maintains records to adequately substantiate the claims. The substantiating records shall be made available to the department upon request.

(s) Advertise any incentive offered by the manufacturer or distributor if the dealer is required to contribute to the cost of the incentive as a condition of participating in the incentive program, unless the dealer discloses in a clear and conspicuous manner that dealer participation may affect consumer cost.

For purposes of this subdivision, "incentive" means anything of value offered to induce people to purchase a vehicle, including, but not limited to, discounts, savings claims, rebates, below-market finance rates, and free merchandise or services.

(t) To display or offer for sale any used vehicle unless there is affixed to the vehicle the Federal Trade Commission's Buyer's Guide as required by Part 455 of Title 16 of the Code of Federal Regulations.

SEC. 2. Section 11713.1 of the Vehicle Code is amended to read:

11713.1. It is a violation of this code for the holder of any dealer's license issued under this article to do any of the following:

(a) Advertise any specific vehicle for sale without identifying the vehicle by either its vehicle identification number or license number.

(b) Advertise the total price of a vehicle without including all costs to the purchaser at time of sale, except taxes, vehicle registration fees, certificate of compliance or noncompliance fees not exceeding thirty-five dollars ($35) pursuant to any statute, finance charges, and any dealer documentary preparation charge. The dealer documentary preparation charge shall not exceed thirty-five dollars ($35).

(c) Exclude from the newspaper display advertisement of a vehicle for sale that there will be added to the advertised total price at the time of sale, charges for sales tax, vehicle registration fees, the fee charged by the state for the issuance of any certificate of compliance or noncompliance pursuant to any statute, finance charges, and any dealer documentary preparation charge.

For purposes of this subdivision, "newspaper display advertisement" means any advertisement in a newspaper which is two or more newspaper columns in width or one newspaper column in width and more than seven inches in length.

(d) Represent the dealer documentary preparation charge or certificate of compliance or noncompliance fee, as a governmental fee.

(e) Fail to sell a vehicle to any person at the advertised total price, exclusive of taxes, vehicle registration fees, the fee charged by the state for the issuance of any certificate of compliance or noncompliance pursuant to any statute, finance charges, mobilehome escrow fees, the amount of any city, county, or city and county imposed fee or tax for a mobilehome, and any dealer documentary preparation charge, which charges shall not exceed thirty-five dollars ($35) for the documentary preparation charge and thirty-five dollars ($35) for the certificate of compliance or noncompliance pursuant to any statute, while the vehicle remains unsold, unless the advertisement states the advertised total price is good only for a specified time and the time has elapsed.

(f) Advertise for sale as new any new vehicle of a line-make for which the dealer does not hold a franchise.

This subdivision does not apply to any transaction involving a mobilehome as defined in Section 396, a recreational vehicle as defined in Section 18010.5 of the Health and Safety Code, a commercial coach as defined in Section 18012 of the Health and Safety Code, an off-highway motor vehicle subject to identification as defined in Section 38012, or a commercial vehicle as defined in Section 260.

(g) Sell a park trailer, as defined in subdivision (f) of Section 799.24 of the Civil Code, without disclosing in writing to the purchaser that a park trailer is required to be moved by a transporter or a licensed manufacturer or dealer under a permit issued by the Department of Transportation or a local authority with respect to

highways under their respective jurisdictions.

(h) Advertise free merchandise, gifts, or services provided by a dealer contingent on the purchase of a vehicle. The term "free" includes merchandise or services offered for sale at a price less than the seller's cost of the merchandise or services.

(i) Advertise vehicles and related goods or services with intent not to supply reasonably expectable demand, unless the advertisement discloses a limitation of quantity.

(j) Use the term "rebate" or similar words such as "cash back" in advertising the sale of a vehicle unless the rebate is expressed in a specific dollar amount and is in fact a rebate offered by the vehicle manufacturer or distributor directly to the retail purchaser of the vehicle or to the assignee of the retail purchaser.

(k) Require a person to pay a higher price for a vehicle and related goods or services for receiving advertised credit terms than the cash price the same person would have to pay to purchase the same vehicle and related goods or services. For the purpose of this subdivision, "cash price" has the meaning as defined in subdivision (e) of Section 2981 of the Civil Code.

(*l*) Advertise a guaranteed trade-in allowance unless the guarantee is provided by the manufacturer or distributor.

(m) Misrepresent the authority of a salesperson, representative, or agent to negotiate the final terms of a transaction.

(n) (1) Advertise that the selling price of a vehicle is above, below, or at either of the following:

(A) The manufacturer's or distributor's invoice price to a dealer.

(B) A dealer's cost.

(2) This subdivision does not apply to either of the following:

(A) Any communication occurring during face-to-face negotiations for the purchase of a specific vehicle.

(B) Any communication between a dealer and a prospective commercial purchaser that is not disseminated to the general public. For purposes of this subparagraph, a "commercial purchaser" means a dealer, lessor, lessor-retailer, manufacturer, remanufacturer, distributor, financial institution, governmental entity, or person who purchases 10 or more vehicles during a year.

(o) Violate any law prohibiting bait and switch advertising, including, but not limited to, the guides against bait advertising set forth in Part 238 (commencing with Section 238) of Title 16 of the Code of Federal Regulations, as those regulations read on January 1, 1988.

(p) Make any untrue or misleading statement indicating that a vehicle is equipped with all the factory installed optional equipment the manufacturer offers, including, but not limited to, a false statement that a vehicle is "fully factory equipped."

(q) Affix on any new vehicle a supplemental price sticker containing a price that represents the dealer's asking price which exceeds the manufacturer's suggested retail price unless all of the following occur:

(1) The supplemental sticker clearly and conspicuously discloses in the largest print appearing on the sticker, other than the print size used for the dealer's name, that the supplemental sticker price is the dealer's asking price, or words of similar import, and that it is not the manufacturer's suggested retail price.

(2) The supplemental sticker clearly and conspicuously discloses the manufacturer's suggested retail price.

(3) The supplemental sticker lists each item which is not included in the manufacturer's suggested retail price, and discloses the additional price of each item. If the supplemental sticker price is greater than the sum of the manufacturer's suggested retail price and the price of the items added by the dealer, then the supplemental sticker price shall set forth that difference and describe it as "added mark-up."

(r) Advertise any underselling claim, such as "we have the lowest prices" or "we will beat any dealer's price," unless the dealer has conducted a recent survey showing that the dealer sells its vehicles at lower prices than any other licensee in its trade area and maintains records to adequately substantiate the claims. The substantiating records shall be made available to the department upon request.

(s) Advertise any incentive offered by the manufacturer or distributor if the dealer is required to contribute to the cost of the incentive as a condition of participating in the incentive program, unless the dealer discloses in a clear and conspicuous manner that dealer participation may affect consumer cost.

For purposes of this subdivision, "incentive" means anything of value offered to induce people to purchase a vehicle, including, but not limited to, discounts, savings claims, rebates, below-market finance rates, and free merchandise or services.

(t) Display or offer for sale any used vehicle unless there is affixed to the vehicle the Federal Trade Commission's Buyer's Guide as required by Part 455 of Title 16 of the Code of Federal Regulations.

SEC. 3. The Legislature finds and declares that a motor vehicle dealer's cost and invoice price advertising has the capacity to confuse the public by erroneously leading it to believe that the advertised dealer cost or invoice price is the dealer's actual cost. The provisions of subdivision (n) of Section 11713.1 of the Vehicle Code, as operative on the day prior to the effective date of the amendments made to Section 11713.1 by this act, or other disclosures of reasonable length cannot (1) adequately dissipate the confusing character of cost or invoice price advertising, (2) explain to the general public complex factors affecting a dealer's actual cost, including manufacturer's holdbacks and incentive programs, or (3) provide a basis for accurately estimating the difference between invoice price or advertised dealer cost and the dealer's actual cost for a vehicle, which usually cannot be determined at the time the vehicle is advertised for sale.

SEC. 4. This act shall apply only to advertisements made on or after the effective date of this act. This act and the legislative history

and record of this act may not be admissible or considered for any purpose in connection with any action or proceeding involving an advertisement made before the effective date of this act.

SEC. 5. Section 2 of this bill incorporates amendments to Section 11713.1 of the Vehicle Code proposed by both this bill and SB 245. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 11713.1 of the Vehicle Code, and (3) this bill is enacted after SB 245, in which case Section 1 of this bill shall not become operative.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 936

An act to amend Sections 8505.1 and 8516.1 of the Business and Professions Code, relating to structural pest control.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 8505.1 of the Business and Professions Code is amended to read:

8505.1. (a) Except as provided in subdivision (b), for the purpose of this act, "fumigation" shall be defined as the use within an enclosed space for the destruction of plant or animal life, a substance having a vapor pressure greater than 5 millimeters of mercury at 25 degrees centigrade.

The following is a list of lethal fumigants:

(1) Chloropicrin.
(2) Methyl bromide.
(3) Sulfur dioxide.
(4) Propylene oxide.
(5) Sulfuryl fluoride.
(6) Aluminum phosphide.

The board may by regulation adopt, and may from time to time by regulation amend, a list of fumigants whose use as described in this subdivision shall constitute fumigation for purposes of this chapter.

(b) For the purpose of this act "simple asphyxiants" shall not be

deemed to be fumigants.

The following is a list of simple asphyxiants:

(1) Liquid nitrogen.

(2) Carbon dioxide.

A list of simple asphyxiants shall be established and amended, when necessary, by the board.

SEC. 2. Section 8516.1 of the Business and Professions Code is amended to read:

8516.1. (a) This section applies only to work conducted under a Branch 4 license.

(b) No Branch 4 registered company or licensee shall commence work on a contract, or sign, issue, or deliver any documents expressing an opinion or statement relating to the absence or presence of wood destroying organisms or nondecay fungi on a wood shake or shingle roof until an inspection has been made. All inspections performed by Branch 4 registered companies or licensees shall be limited to the wood shakes or shingles on wood shake or shingle roofs and may only be performed for purposes of detecting the presence or absence of (1) wood destroying organisms such as decay fungi on the wood shakes or shingles and resulting decay, or (2) nondecay fungi such as mold, mildew, lichen, or moss on the wood shakes or shingles.

(c) All Branch 4 registered companies shall retain for three years all field reports from which a verbal or written estimate of or solutions for work are made. A written inspection report conforming to this section and on a form prescribed by the board shall be prepared and delivered to the person requesting the inspection or to the person's designated agent. A copy of each report shall be filed with the board at the time the report is delivered or not later than five working days after the date the inspection is made. The report shall be delivered to the person requesting the inspection, or to the person's designated agent, before work is commenced. The following items shall be set forth in the report:

(1) The date of the inspection and the name of the licensee making the inspection.

(2) The name and address of the person or firm ordering the report.

(3) The name and address of any person who is a party in interest to whom the board is to send certified copies of the inspection reports and completion notices as provided in subdivision (e).

(4) The address or location of the property.

(5) A general description of the building inspected.

(6) A diagram or sketch of the roof inspected indicating thereon the type and approximate location of any infection of wood destroying organisms or nondecay fungi.

(7) Information regarding conditions usually deemed likely to lead to infection of wood destroying organisms and nondecay fungi.

(8) Recommendations for corrective measures.

(9) Information regarding the wood preservative to be used for

control of the wood destroying organisms and nondecay fungi as set forth in subdivision (a) of Section 8538.

(d) The report and any contract entered into shall also state specifically when any guarantee for the work is made, and if so, the specific terms of the guarantee and the period of time for which the guarantee shall take effect.

(e) Whenever a report is filed pursuant to subdivision (c), the board shall forthwith send to any person or firm designated under paragraph (3) of that subdivision a certified copy of all inspection reports and completion notices made on the property and filed with the board during the preceding two years, if so requested, and, upon payment of an appropriate search fee.

(f) All work recommended by a Branch 4 registered company, where an estimate or bid for making repairs was given with the original inspection report, or thereafter, shall be recorded on that report or a separate work agreement and shall specify a price for each recommendation. This information shall be provided to the person requesting the inspection, and shall be retained by the registered company with the inspection report copy for two years.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 937

An act to amend Sections 1522, 1568.09, 1569.17, and 1596.871 of the Health and Safety Code, and to amend Section 11105.3 of the Penal Code, relating to care facilities.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 1522 of the Health and Safety Code is amended to read:

1522. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with community care clients may pose a risk to the clients' health and safety.

(a) Before issuing a license or special permit to any person or

persons to operate or manage a community care facility, the state department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of, or, after having been arrested and released on bail or on his or her own recognizance, is currently awaiting trial for, a crime other than a minor traffic violation. No fee shall be charged by the Department of Justice or the state department for the fingerprinting of an applicant for a license or special permit to operate a facility providing nonmedical board, room, and care for six or less children or for obtaining a criminal record of the applicant pursuant to this section. If it is found that the applicant, or any other person specified in subdivision (b), has been convicted of, or is awaiting trial for, a crime other than a minor traffic violation, the Department of Justice shall notify the State Department of Social Services of the fact and the application shall be denied, unless the director grants an exemption pursuant to subdivision (f). If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.

(b) In addition to the applicant, this section shall be applicable to criminal convictions of the following persons:

(1) Adults responsible for administration or direct supervision of staff.

(2) Any person, other than a client, residing in the facility.

(3) Any person who provides client assistance in dressing, grooming, bathing, or personal hygiene.

(4) Any staff person or employee who has frequent and routine contact with the clients. In determining who has frequent contact, any volunteer who is in the facility shall be exempt unless the volunteer is used to replace or supplement staff in providing direct care and supervision of clients. In determining who has routine contact, staff and employees under direct onsite supervision and who are not providing direct care and supervision or who have only occasional or intermittent contact with clients shall be exempt.

(5) Except for staff members of social rehabilitation facilities serving minors with alcohol or drug abuse problems, staff members of social rehabilitation facilities, other than those specified in paragraphs (1) and (2), are exempt from fingerprinting requirements.

(6) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity.

(7) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(c) Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a community care facility, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit these fingerprints to the Department of Justice not later than four calendar days following employment, residence, or initial presence in the community care facility. These fingerprints shall be on a card provided by the State Department of Social Services for the purpose of obtaining a permanent set of fingerprints. Fingerprints not submitted to the Department of Justice, as required in this section, shall result in the citation of a deficiency and the fingerprints shall then be submitted to the Department of Social Services for processing. Upon request of the licensee, who shall enclose a self-addressed stamped postcard for this purpose, the Department of Justice shall verify receipt of the fingerprints.

Within 30 calendar days of the receipt of the fingerprints, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided for in subdivision (a). If no criminal record information has been recorded, the Department of Justice shall provide the licensee and the State Department of Social Services with a statement of that fact within 15 calendar days of receipt of the fingerprints. If new fingerprints are required for processing, the Department of Justice shall, within 15 calendar days from the date of receipt of the fingerprints, notify the licensee that the fingerprints were illegible.

Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the State Department of Social Services, on the basis of the fingerprints submitted to the Department of Justice, that the person has been convicted of, or is awaiting trial for, a sex offense against a minor, or has been convicted for an offense specified in Section 243.4, 273a, 273d, or subdivision (a) or (b) of Section 368 of the Penal Code, or has been convicted of a felony, the State Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility. The State Department of Social Services may subsequently grant an exemption pursuant to subdivision (f). If the conviction or arrest was for another crime, except a minor traffic violation, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility; or (2) seek an exemption pursuant to subdivision (f). The State Department of Social Services shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered.

(d) Before issuing a license, special permit, or certificate of approval to any person or persons to operate or manage a foster family home or certified family home as described in Section 1506, the state department or other approving authority shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other adult person residing in the home has ever been convicted of, or arrested for, a crime other than a minor traffic violation. That criminal history information shall include the full criminal record, if any, of those persons. No fee shall be charged by the Department of Justice or the state department for the fingerprinting of an applicant for a license, special permit, or certificate of approval described in this subdivision. The record, if any, shall be taken into consideration when evaluating a prospective applicant. If the applicant or other persons specified in this subdivision have convictions that would make the applicant's home unfit as a foster family home or a certified family home, the license, special permit, or certificate of approval shall be denied. For the purposes of this subdivision, a criminal record clearance provided under Section 222.40 of the Civil Code may be used by the department or other approving agency.

Any person specified in this subdivision shall, as a part of the application, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal arrests or convictions and shall submit these fingerprints to the licensing agency or other approving authority. The foster family agency shall obtain fingerprints from certified home applicants and from persons specified in subdivision (b), and shall submit them directly to the Department of Justice. Within five working days of the receipt of the criminal record or information regarding criminal convictions from the Department of Justice, the department shall notify the applicant of any criminal arrests or convictions. If no arrests or convictions are recorded, the Department of Justice shall provide the foster family agency with a statement of that fact concurrent with providing the information to the State Department of Social Services. The application shall be denied if it is determined by the approving authority, on the basis of the fingerprints submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, or has been convicted of an offense specified in Section 220, 243.4, 264.1, paragraph (1) of Section 273a, Section 273d, 288, 289, or subdivision (a) or (b) of Section 368 of the Penal Code, or was convicted of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(e) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the state department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of

sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction.

(f) After review of the record, the director may grant an exemption from disqualification for a license or special permit pursuant to subdivision (a), or for employment, residence, or presence in a community care facility as specified in subdivision (c), if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). Except as otherwise provided in this subdivision, no exemption shall be granted pursuant to this subdivision if the conviction was for an offense specified in Section 220, 243.4, 264.1, paragraph (1) of Section 273a, Sections 273d, 288, 289, or subdivision (a) or (b) of Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code. The director may grant an exemption if the employee or prospective employee, who was convicted of a crime against an individual in paragraph (1), (2), (7), or (8) of subdivision (c) of Section 667.5 of the Penal Code, has been rehabilitated as provided in Section 4852.03 of the Penal Code and has maintained the conduct required in Section 4852.05 of the Penal Code for at least 10 years and has the recommendation of the district attorney representing the employee's county of residence, or if the employee or prospective employee has received a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

(g) For purposes of compliance with this section, the department may permit an individual to transfer a current criminal records clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another state licensing district office.

(h) The full criminal record obtained for purposes of this section may be used by the department or by a licensed adoption agency as a clearance required for adoption purposes.

SEC. 1.5. Section 1522 of the Health and Safety Code is amended to read:

1522. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with community care clients may pose a risk to the clients' health and safety.

(a) Before issuing a license or special permit to any person or persons to operate or manage a community care facility, the state department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of, or, after having been arrested and released on bail or on his or her own recognizance, is currently awaiting trial for, a crime other than a minor traffic violation. No fee shall be charged by the Department of Justice or the state department for the fingerprinting of an applicant for a license or special permit to operate a facility providing nonmedical board, room, and care for six or less children or for obtaining a criminal record of the applicant pursuant to this section. If it is found that the applicant, or any other person specified in subdivision (b), has been convicted of, or is awaiting trial for, a crime other than a minor traffic violation, the Department of Justice shall notify the State Department of Social Services of the fact and the application shall be denied, unless the director grants an exemption pursuant to subdivision (f). If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.

(b) In addition to the applicant, this section shall be applicable to criminal convictions of the following persons:

(1) Adults responsible for administration or direct supervision of staff.

(2) Any person, other than a client, residing in the facility.

(3) Any person who provides client assistance in dressing, grooming, bathing, or personal hygiene.

(4) Any staff person or employee who has frequent and routine contact with the clients. In determining who has frequent contact, any volunteer who is in the facility shall be exempt unless the volunteer is used to replace or supplement staff in providing direct care and supervision of clients. In determining who has routine contact, staff and employees under direct onsite supervision and who are not providing direct care and supervision or who have only occasional or intermittent contact with clients shall be exempt.

(5) Except for staff members of social rehabilitation facilities serving minors with alcohol or drug abuse problems, staff members of social rehabilitation facilities, other than those specified in paragraphs (1) and (2), are exempt from fingerprinting requirements.

(6) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity.

(7) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the

operation of the facility.

(c) Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a community care facility, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit these fingerprints to the Department of Justice not later than four calendar days following employment, residence, or initial presence in the community care facility. These fingerprints shall be on a card provided by the State Department of Social Services for the purpose of obtaining a permanent set of fingerprints. Fingerprints not submitted to the Department of Justice, as required in this section, shall result in the citation of a deficiency and the fingerprints shall then be submitted to the State Department of Social Services for processing. Upon request of the licensee, who shall enclose a self-addressed stamped postcard for this purpose, the Department of Justice shall verify receipt of the fingerprints.

Within 30 calendar days of the receipt of the fingerprints, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided for in subdivision (a). If no criminal record information has been recorded, the Department of Justice shall provide the licensee and the State Department of Social Services with a statement of that fact within 15 calendar days of receipt of the fingerprints. If new fingerprints are required for processing, the Department of Justice shall, within 15 calendar days from the date of receipt of the fingerprints, notify the licensee that the fingerprints were illegible.

Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the State Department of Social Services, on the basis of the fingerprints submitted to the Department of Justice, that the person has been convicted of, or is awaiting trial for, a sex offense against a minor, or has been convicted for an offense specified in Section 243.4, 273a, 273d, or subdivision (a) or (b) of Section 368 of the Penal Code, or has been convicted of a felony, the State Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility. The State Department of Social Services may subsequently grant an exemption pursuant to subdivision (f). If the conviction or arrest was for another crime, except a minor traffic violation, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility; or (2) seek an exemption pursuant to subdivision (f). The State Department of Social Services shall determine if the person shall be allowed to

remain in the facility until a decision on the exemption is rendered.

(d) Before issuing a license, special permit, or certificate of approval to any person or persons to operate or manage a foster family home or certified family home as described in Section 1506, the state department or other approving authority shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other adult person residing in the home has ever been convicted of, or arrested for, a crime other than a minor traffic violation. That criminal history information shall include the full criminal record, if any, of those persons. No fee shall be charged by the Department of Justice or the state department for the fingerprinting of an applicant for a license, special permit, or certificate of approval described in this subdivision. The record, if any, shall be taken into consideration when evaluating a prospective applicant. If the applicant or other persons specified in this subdivision have convictions that would make the applicant's home unfit as a foster family home or a certified family home, the license, special permit, or certificate of approval shall be denied. For the purposes of this subdivision, a criminal record clearance provided under Section 222.40 of the Civil Code may be used by the department or other approving agency.

Any person specified in this subdivision shall, as a part of the application, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal arrests or convictions and shall submit these fingerprints to the licensing agency or other approving authority. The foster family agency shall obtain fingerprints from certified home applicants and from persons specified in subdivision (b) and shall submit them directly to the Department of Justice. Within five working days of the receipt of the criminal record or information regarding criminal convictions from the Department of Justice, the department shall notify the applicant of any criminal arrests or convictions. If no arrests or convictions are recorded, the Department of Justice shall provide the foster family agency with a statement of that fact concurrent with providing the information to the State Department of Social Services. The application shall be denied if it is determined by the approving authority, on the basis of the fingerprints submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, or has been convicted of an offense specified in Section 220, 243.4, 264.1, paragraph (1) of Section 273a, Section 273d, 288, 289, or subdivision (a) or (b) of Section 368 of the Penal Code, or was convicted of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(e) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the state department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an

order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction.

(f) After review of the record, the director may grant an exemption from disqualification for a license or special permit pursuant to subdivision (a), or for employment, residence, or presence in a community care facility as specified in subdivision (c), if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). Except as otherwise provided in this subdivision, no exemption shall be granted pursuant to this subdivision if the conviction was for an offense specified in Section 220, 243.4, 264.1, paragraph (1) of Section 273a, Sections 273d, 288, 289, or subdivision (a) or (b) of Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code. The director may grant an exemption if the employee or prospective employee, who was convicted of a crime against an individual in paragraph (1), (2), (7), or (8) of subdivision (c) of Section 667.5 of the Penal Code, has been rehabilitated as provided in Section 4852.03 of the Penal Code and has maintained the conduct required in Section 4852.05 of the Penal Code for at least 10 years and has the recommendation of the district attorney representing the employee's county of residence, or if the employee or prospective employee has received a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

(g) For purposes of compliance with this section, the department may permit an individual to transfer a current criminal records clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another state licensing district office.

(h) The full criminal record obtained for purposes of this section may be used by the department or by a licensed adoption agency as a clearance required for adoption purposes.

(i) If a licensee or facility is required by law to deny employment or to terminate employment of any employee based on written notification from the state department that the employee has a prior criminal conviction or is determined unsuitable for employment under Section 1558, the licensee or facility shall not incur civil

liability or unemployment insurance liability as a result of that denial or termination.

SEC. 2. Section 1568.09 of the Health and Safety Code is amended to read:

1568.09. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with residents of residential care facilities for persons with chronic, life-threatening illness may pose a risk to the residents' health and safety.

(a) Before issuing a license to any person or persons to operate or manage a residential care facility, the department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation. If it is found that the applicant or any other person specified in subdivision (b) has been convicted of a crime, other than a minor traffic violation, the Department of Justice shall notify the State Department of Social Services of that fact and the application shall be denied, unless the director grants an exemption pursuant to subdivision (e). If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.

(b) In addition to the applicant, the provisions of this section shall be applicable to criminal convictions of the following persons:

(1) Adults responsible for administration or direct supervision of staff of the facility.

(2) Any person, other than a resident, residing in the facility.

(3) Any person who provides resident assistance in dressing, grooming, bathing, or personal hygiene.

(4) Any staff person or employee who has frequent and routine contact with the residents. In determining who has frequent contact, any volunteer who is in the facility shall be exempt unless the volunteer is used to replace or supplement staff in providing direct care and supervision of residents. A volunteer who provides direct care and supervision shall be exempt if the volunteer is a resident's spouse, significant other, friend or family member and provides direct care and supervision to that resident only at the request of the resident. In determining who has routine contact, staff and employees under direct onsite supervision and who are not providing direct care and supervision or who have only occasional or intermittent contact with residents shall be exempt.

(5) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in that capacity.

(6) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the

person's capability to exercise substantial influence over the operation of the facility.

(c) Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a residential care facility, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit these fingerprints to the Department of Justice not later than four calendar days following employment, residence, or initial presence in the residential care facility.

These fingerprints shall be on a card provided by the State Department of Social Services for the purpose of obtaining a permanent set of fingerprints. Fingerprints not submitted to the Department of Justice, as required in this section, shall result in the citation of a deficiency and the fingerprints shall then be submitted to the State Department of Social Services for processing.

Within 30 calendar days of the receipt of the fingerprints, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided for in this subdivision. If no criminal record information has been recorded, the Department of Justice shall provide the licensee and the State Department of Social Services with a statement of that fact within 15 calendar days of receipt of the fingerprints. If new fingerprints are required for processing, the Department of Justice shall, within 15 calendar days from the date of receipt of the fingerprints, notify the licensee that the fingerprints were illegible.

Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the State Department of Social Services, on the basis of the fingerprints submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, or has been convicted for an offense specified in Section 243.4, 273a, 273d, or subdivision (a) or (b) of Section 368 of the Penal Code, or has been convicted of a felony, the department shall notify the licensee to act immediately to terminate the person's employment, remove the person from the residential care facility, or bar the person from entering the residential care facility. The department may subsequently grant an exemption pursuant to subdivision (e). If the conviction was for another crime, except a minor traffic violation, the licensee shall, upon notification by the department, act immediately to either (1) terminate the persons' employment, remove the person from the residential care facility, or bar the person from entering the residential care facility; or (2) seek an exemption pursuant to subdivision (e). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered.

(d) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction

following a plea of nolo contendere. Any action which the department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of the sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting that person to withdraw his or her plea of guilty and to enter a plea of not guilty, setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction.

(e) After review of the record, the director may grant an exemption from disqualification for a license pursuant to subdivision (a), or for employment, residence, or presence in a residential care facility as specified in subdivision (c) if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). However, no exemption shall be granted pursuant to this subdivision if the conviction was for an offense specified in Section 220, 243.4, 264.1, or paragraph (1) of Section 273a or Section 273d, or Section 288 or 289, or subdivision (a) or (b) of Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(f) For purposes of compliance with this section, the department may permit an individual to transfer a current criminal records clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another state licensing district office.

SEC. 2.5. Section 1568.09 of the Health and Safety Code is amended to read:

1568.09. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with residents of residential care facilities for persons with a chronic, life-threatening illness may pose a risk to the residents' health and safety.

(a) Before issuing a license to any person or persons to operate or manage a residential care facility, the department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation. If it is found that the applicant or any other person specified in subdivision (b) has been convicted of a crime, other than a minor traffic violation, the Department of Justice shall

notify the State Department of Social Services of that fact and the application shall be denied, unless the director grants an exemption pursuant to subdivision (e). If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.

(b) In addition to the applicant, the provisions of this section shall be applicable to criminal convictions of the following persons:

(1) Adults responsible for administration or direct supervision of staff of the facility.

(2) Any person, other than a resident, residing in the facility.

(3) Any person who provides resident assistance in dressing, grooming, bathing, or personal hygiene.

(4) Any staff person or employee who has frequent and routine contact with the residents. In determining who has frequent contact, any volunteer who is in the facility shall be exempt unless the volunteer is used to replace or supplement staff in providing direct care and supervision of residents. A volunteer who provides direct care and supervision shall be exempt if the volunteer is a resident's spouse, significant other, friend or family member and provides direct care and supervision to that resident only at the request of the resident. In determining who has routine contact, staff and employees under direct onsite supervision and who are not providing direct care and supervision or who have only occasional or intermittent contact with residents shall be exempt.

(5) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in that capacity.

(6) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(c) Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a residential care facility, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit these fingerprints to the Department of Justice not later than four calendar days following employment, residence, or initial presence in the residential care facility.

These fingerprints shall be on a card provided by the State Department of Social Services for the purpose of obtaining a permanent set of fingerprints. Fingerprints not submitted to the Department of Justice, as required in this section, shall result in the citation of a deficiency and the fingerprints shall then be submitted to the State Department of Social Services for processing.

Within 30 calendar days of the receipt of the fingerprints, the

Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided for in this subdivision. If no criminal record information has been recorded, the Department of Justice shall provide the licensee and the State Department of Social Services with a statement of that fact within 15 calendar days of receipt of the fingerprints. If new fingerprints are required for processing, the Department of Justice shall, within 15 calendar days from the date of receipt of the fingerprints, notify the licensee that the fingerprints were illegible.

Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the State Department of Social Services, on the basis of the fingerprints submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, or has been convicted for an offense specified in Section 243.4, 273a, 273d, or subdivision (a) or (b) of Section 368 of the Penal Code, or has been convicted of a felony, the department shall notify the licensee to act immediately to terminate the person's employment, remove the person from the residential care facility, or bar the person from entering the residential care facility. The department may subsequently grant an exemption pursuant to subdivision (e). If the conviction was for another crime, except a minor traffic violation, the licensee shall, upon notification by the department, act immediately to either (1) terminate the persons' employment, remove the person from the residential care facility, or bar the person from entering the residential care facility; or (2) seek an exemption pursuant to subdivision (e). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered.

(d) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of the sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting that person to withdraw his or her plea of guilty and to enter a plea of not guilty, setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction.

(e) After review of the record, the director may grant an exemption from disqualification for a license pursuant to subdivision (a), or for employment, residence, or presence in a residential care facility as specified in subdivision (c) if the director has substantial

and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). However, no exemption shall be granted pursuant to this subdivision if the conviction was for an offense specified in Section 220, 243.4, 264.1, or paragraph (1) of Section 273a or Section 273d, or Section 288 or 289, or subdivision (a) or (b) of Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(f) For purposes of compliance with this section, the department may permit an individual to transfer a current criminal records clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another state licensing district office.

(g) If a licensee or facility is required by law to deny employment or to terminate employment of any employee based on written notification from the state department that the employee has a prior criminal conviction or is determined unsuitable for employment under Section 1568.092, the licensee or facility shall not incur civil liability or unemployment insurance liability as a result of that denial or termination.

SEC. 3. Section 1569.17 of the Health and Safety Code is amended to read:

1569.17. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with clients of residential care facilities for the elderly may pose a risk to the clients' health and safety.

(a) Before issuing a license to any person or persons to operate or manage a residential care facility for the elderly, the department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation. If it is found that the applicant or any other person specified in subdivision (b) has been convicted of a crime, other than a minor traffic violation, the Department of Justice shall notify the State Department of Social Services of that fact and the application shall be denied, unless the director grants an exemption pursuant to subdivision (e). If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.

(b) In addition to the applicant, the provisions of this section shall be applicable to criminal convictions of the following persons:

(1) Adults responsible for administration or direct supervision of staff.

(2) Any person, other than a client, residing in the facility.

(3) Any person who provides client assistance in dressing, grooming, bathing, or personal hygiene.

(4) Any staff person or employee who has frequent and routine contact with the clients. In determining who has frequent contact, any volunteer who is in the facility shall be exempt unless the volunteer is used to replace or supplement staff in providing direct care and supervision of clients. In determining who has routine contact, staff and employees under direct onsite supervision and who are not providing direct care and supervision or who have only occasional or intermittent contact with clients shall be exempt.

(5) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity.

(6) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(c) Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a residential facility for the elderly, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit these fingerprints to the Department of Justice not later than four calendar days following employment, residence, or initial presence in the residential care facility for the elderly.

These fingerprints shall be on a card provided by the State Department of Social Services for the purpose of obtaining a permanent set of fingerprints. Fingerprints not submitted to the Department of Justice, as required in this section, shall result in the citation of a deficiency and the fingerprints shall then be submitted to the State Department of Social Services for processing.

Within 30 calendar days of the receipt of the fingerprints, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided for in this subdivision. If no criminal record information has been recorded, the Department of Justice shall provide the licensee and the State Department of Social Services with a statement of that fact within 15 calendar days of receipt of the fingerprints. If new fingerprints are required for processing, the Department of Justice shall, within 15 calendar days from the date of receipt of the fingerprints, notify the licensee that the fingerprints were illegible.

Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the State Department of Social Services, on the basis of the fingerprints submitted to the Department of Justice, that the person has been convicted of a sex

offense against a minor, or has been convicted for an offense specified in Section 243.4, 273a, 273d, or subdivision (a) or (b) of Section 368 of the Penal Code, or has been convicted of a felony, the State Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the residential care facility for the elderly, or bar the person from entering the residential care facility for the elderly. The State Department of Social Services may subsequently grant an exemption pursuant to subdivision (e). If the conviction was for another crime, except a minor traffic violation, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the residential care facility for the elderly, or bar the person from entering the residential care facility for the elderly; or (2) seek an exemption pursuant to subdivision (e). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered.

(d) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of the sentence, notwithstanding a subsequent order pursuant to the provisions of Sections 1203.4 and 1203.4a of the Penal Code permitting such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction.

(e) After review of the record, the director may grant an exemption from disqualification for a license pursuant to subdivision (a), or for employment, residence, or presence in a residential care facility for the elderly as specified in subdivision (c) if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). However, no exemption shall be granted pursuant to this subdivision if the conviction was for an offense specified in Section 220, 243.4, 264.1, or paragraph (1) of Section 273a or Section 273d, or Section 288 or 289, or subdivision (a) or (b) of Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(f) For purposes of compliance with this section, the department

may permit an individual to transfer a current criminal records clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another state licensing district office.

SEC. 3.5. Section 1569.17 of the Health and Safety Code is amended to read:

1569.17. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with clients of residential care facilities for the elderly may pose a risk to the clients' health and safety.

(a) Before issuing a license to any person or persons to operate or manage a residential care facility for the elderly, the department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation. If it is found that the applicant or any other person specified in subdivision (b) has been convicted of a crime, other than a minor traffic violation, the Department of Justice shall notify the State Department of Social Services of that fact and the application shall be denied, unless the director grants an exemption pursuant to subdivision (e). If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.

(b) In addition to the applicant, the provisions of this section shall be applicable to criminal convictions of the following persons:

(1) Adults responsible for administration or direct supervision of staff.

(2) Any person, other than a client, residing in the facility.

(3) Any person who provides client assistance in dressing, grooming, bathing, or personal hygiene.

(4) Any staff person or employee who has frequent and routine contact with the clients. In determining who has frequent contact, any volunteer who is in the facility shall be exempt unless the volunteer is used to replace or supplement staff in providing direct care and supervision of clients. In determining who has routine contact, staff and employees under direct onsite supervision and who are not providing direct care and supervision or who have only occasional or intermittent contact with clients shall be exempt.

(5) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity.

(6) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(c) Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a residential facility for the elderly, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit these fingerprints to the Department of Justice not later than four calendar days following employment, residence, or initial presence in the residential care facility for the elderly.

These fingerprints shall be on a card provided by the State Department of Social Services for the purpose of obtaining a permanent set of fingerprints. Fingerprints not submitted to the Department of Justice, as required in this section, shall result in the citation of a deficiency and the fingerprints shall then be submitted to the State Department of Social Services for processing.

Within 30 calendar days of the receipt of the fingerprints, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided for in this subdivision. If no criminal record information has been recorded, the Department of Justice shall provide the licensee and the State Department of Social Services with a statement of that fact within 15 calendar days of receipt of the fingerprints. If new fingerprints are required for processing, the Department of Justice shall, within 15 calendar days from the date of receipt of the fingerprints, notify the licensee that the fingerprints were illegible.

Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the State Department of Social Services, on the basis of the fingerprints submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, or has been convicted for an offense specified in Section 243.4, 273a, 273d, or subdivision (a) or (b) of Section 368 of the Penal Code, or has been convicted of a felony, the State Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the residential care facility for the elderly, or bar the person from entering the residential care facility for the elderly. The State Department of Social Services may subsequently grant an exemption pursuant to subdivision (e). If the conviction was for another crime, except a minor traffic violation, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the residential care facility for the elderly, or bar the person from entering the residential care facility for the elderly; or (2) seek an exemption pursuant to subdivision (e). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered.

(d) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction

following a plea of nolo contendere. Any action which the department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of the sentence, notwithstanding a subsequent order pursuant to the provisions of Sections 1203.4 and 1203.4a of the Penal Code permitting such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction.

(e) After review of the record, the director may grant an exemption from disqualification for a license pursuant to subdivision (a), or for employment, residence, or presence in a residential care facility for the elderly as specified in subdivision (c) if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). However, no exemption shall be granted pursuant to this subdivision if the conviction was for an offense specified in Section 220, 243.4, 264.1, or paragraph (1) of Section 273a or Section 273d, or Section 288 or 289, or subdivision (a) or (b) of Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(f) For purposes of compliance with this section, the department may permit an individual to transfer a current criminal records clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another state licensing district office.

(g) If a licensee or facility is required by law to deny employment or to terminate employment of any employee based on written notification from the state department that the employee has a prior criminal conviction or is determined unsuitable for employment under Section 1569.58, the licensee or facility shall not incur civil liability or unemployment insurance liability as a result of that denial or termination.

SEC. 4. Section 1596.871 of the Health and Safety Code is amended to read:

1596.871. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with child day care facility clients may pose a risk to the children's health and safety.

(a) Before issuing a license or special permit to any person to

operate or manage a day care facility, the department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation. No fee shall be charged by the Department of Justice or the department for the fingerprinting of an applicant who will serve six or fewer children or any family day care applicant for a license, or for obtaining a criminal record of such an applicant pursuant to this section. If it is found that the applicant or any other person specified in subdivision (b) has been convicted of a crime, other than a minor traffic violation, the Department of Justice shall notify the State Department of Social Services of that fact and the application shall be denied, unless the director grants an exemption pursuant to subdivision (e). If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.

(b) In addition to the applicant, this section shall be applicable to criminal convictions of the following persons:

(1) Adults responsible for administration or direct supervision of staff.

(2) Any person, other than a child, residing in the facility.

(3) Any person who provides care and supervision to the children.

(4) Any staff person or employee who has frequent and routine contact with the children. In determining who has frequent contact, any volunteer who is in the facility shall be exempt unless the volunteer is used to replace or supplement staff in providing direct care and supervision of children in care. In determining who has routine contact, staff and employees under direct onsite supervision and who are not providing direct care and supervision or who have only occasional or intermittent contact with clients shall be exempt.

(5) If the applicant is a firm, partnership, association, or corporation, the chief executive officer, other person serving in like capacity, or a person designated by the chief executive officer as responsible for the operation of the facility.

(6) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(7) This section does not apply to adult volunteers or adult staff employed by the applicant on an intermittent basis for less than 10 days per month, provided that these adults are under constant supervision by adults who meet the requirements of this section.

(8) This section does not apply to employees of child care and development programs under contract with the State Department of Education who have completed a criminal records clearance as part of an application to the Commission on Teacher Credentialing,

and who possess a current credential or permit issued by the commission. The Commission on Teacher Credentialing shall notify the department upon revocation of a current credential or permit issued to an employee of a child care and development program under contract with the State Department of Education.

(c) Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a child day care facility be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal conviction. The licensee shall submit these fingerprints to the Department of Justice not later than four calendar days following employment, residence, or initial presence in the child day care facility.

These fingerprints shall be on a card provided by the State Department of Social Services for the purpose of obtaining a permanent set of fingerprints. Fingerprints not submitted to the Department of Justice, as required in this section, shall result in the citation of a deficiency and the fingerprints shall then be submitted to the State Department of Social Services for processing. Within 30 calendar days of the receipt of the fingerprints, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided in this subdivision. If no criminal record information has been recorded, the Department of Justice shall provide the licensee and the State Department of Social Services with a statement of that fact within 15 calendar days of receipt of the fingerprints. If new fingerprints are required for processing, the Department of Justice shall, within 15 calendar days from the date of receipt of the fingerprints, notify the licensee that the fingerprints were illegible.

Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the department, on the basis of fingerprints submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, or has been convicted of an offense specified in Section 243.4, 273a, 273d, or subdivision (a) or (b) of Section 368 of the Penal Code, or has been convicted of a felony, the State Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the child day care facility, or bar the person from entering the child day care facility. The department may subsequently grant an exemption pursuant to subdivision (e). If the conviction was for another crime except a minor traffic violation, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the child day care facility, or bar the person from entering the child day care facility; or (2) seek an exemption pursuant to subdivision (e). The department shall determine if the person shall be allowed to

remain in the facility until a decision on the exemption is rendered.

(d) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction.

(e) After review of the record, the director may grant an exemption from disqualification for a license or special permit pursuant to subdivision (a), or for employment, residence, or presence in a child day care facility as specified in subdivision (c) if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). However, no exemption shall be granted pursuant to this subdivision if the conviction was for an offense specified in Section 220, 243.4, or 264.1, or paragraph (1) of Section 273a or 273d, or Section 288, 289, or subdivision (a) or (b) of Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(f) Upon request of the licensee, who shall enclose a self-addressed stamped postcard for this purpose, the Department of Justice shall verify receipt of the fingerprints.

(g) For the purposes of compliance with this section, the department may permit an individual to transfer a current criminal records clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another state licensing district office.

SEC. 4.5. Section 1596.871 of the Health and Safety Code is amended to read:

1596.871. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with child day care facility clients may pose a risk to the children's health and safety.

(a) Before issuing a license or special permit to any person to operate or manage a day care facility, the department shall secure

from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation. No fee shall be charged by the Department of Justice or the department for the fingerprinting of an applicant who will serve six or fewer children or any family day care applicant for a license, or for obtaining a criminal record of such an applicant pursuant to this section. If it is found that the applicant or any other person specified in subdivision (b) has been convicted of a crime, other than a minor traffic violation, the Department of Justice shall notify the State Department of Social Services of that fact and the application shall be denied, unless the director grants an exemption pursuant to subdivision (e). If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.

(b) In addition to the applicant, this section shall be applicable to criminal convictions of the following persons:

(1) Adults responsible for administration or direct supervision of staff.

(2) Any person, other than a child, residing in the facility.

(3) Any person who provides care and supervision to the children.

(4) Any staff person or employee who has frequent and routine contact with the children. In determining who has frequent contact, any volunteer who is in the facility shall be exempt unless the volunteer is used to replace or supplement staff in providing direct care and supervision of children in care. In determining who has routine contact, staff and employees under direct onsite supervision and who are not providing direct care and supervision or who have only occasional or intermittent contact with clients shall be exempt.

(5) If the applicant is a firm, partnership, association, or corporation, the chief executive officer, other person serving in like capacity, or a person designated by the chief executive officer as responsible for the operation of the facility.

(6) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(7) This section does not apply to adult volunteers or adult staff employed by the applicant on an intermittent basis for less than 10 days per month, provided that these adults are under constant supervision by adults who meet the requirements of this section.

(8) This section does not apply to employees of child care and development programs under contract with the State Department of Education who have completed a criminal records clearance as part of an application to the Commission on Teacher Credentialing, and who possess a current credential or permit issued by the

commission. The Commission on Teacher Credentialing shall notify the department upon revocation of a current credential or permit issued to an employee of a child care and development program under contract with the State Department of Education.

(c) Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a child day care facility be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal conviction. The licensee shall submit these fingerprints to the Department of Justice not later than four calendar days following employment, residence, or initial presence in the child day care facility.

These fingerprints shall be on a card provided by the State Department of Social Services for the purpose of obtaining a permanent set of fingerprints. Fingerprints not submitted to the Department of Justice, as required in this section, shall result in the citation of a deficiency and the fingerprints shall then be submitted to the State Department of Social Services for processing. Within 30 calendar days of the receipt of the fingerprints, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided in this subdivision. If no criminal record information has been recorded, the Department of Justice shall provide the licensee and the State Department of Social Services with a statement of that fact within 15 calendar days of receipt of the fingerprints. If new fingerprints are required for processing, the Department of Justice shall, within 15 calendar days from the date of receipt of the fingerprints, notify the licensee that the fingerprints were illegible.

Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the department, on the basis of fingerprints submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, or has been convicted of an offense specified in Section 243.4, 273a, 273d, or subdivision (a) or (b) of Section 368 of the Penal Code, or has been convicted of a felony, the State Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the child day care facility, or bar the person from entering the child day care facility. The department may subsequently grant an exemption pursuant to subdivision (e). If the conviction was for another crime except a minor traffic violation, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the child day care facility, or bar the person from entering the child day care facility; or (2) seek an exemption pursuant to subdivision (e). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered.

(d) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction.

(e) After review of the record, the director may grant an exemption from disqualification for a license or special permit pursuant to subdivision (a), or for employment, residence, or presence in a child day care facility as specified in subdivision (c) if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). However, no exemption shall be granted pursuant to this subdivision if the conviction was for an offense specified in Section 220, 243.4, or 264.1, or paragraph (1) of Section 273a or 273d, or Section 288, 289, or subdivision (a) or (b) of Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(f) Upon request of the licensee, who shall enclose a self-addressed stamped postcard for this purpose, the Department of Justice shall verify receipt of the fingerprints.

(g) For the purposes of compliance with this section, the department may permit an individual to transfer a current criminal records clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another state licensing district office.

(h) If a licensee or facility is required by law to deny employment or to terminate employment of any employee based on written notification from the state department that the employee has a prior criminal conviction or is determined unsuitable for employment under Section 1596.8897, the licensee or facility shall not incur civil liability or unemployment insurance liability as a result of that denial or termination.

SEC. 5. Section 11105.3 of the Penal Code is amended to read:

11105.3. (a) Notwithstanding any other provision of law, a

human resource agency or an employer may request from the Department of Justice records of all convictions or any arrest for which the person is released on bail or on his or her own recognizance pending trial, involving any sex crimes, drug crimes, or crimes of violence of a person who applies for a license, employment, or volunteer position, in which he or she would have supervisory or disciplinary power over a minor or any person under their care. The department shall furnish the information to the requesting employer and shall also send a copy of the information to the applicant.

(b) Any request for records under subdivision (a) shall include the applicant's fingerprints, which may be taken by the requester, and any other data specified by the department. The request shall be on a form approved by the department, and the department may charge a fee to be paid by the requester for the actual cost of processing the request. However, no fee shall be charged a nonprofit organization or any agency responsible for the licensing of facilities pursuant to Article 1 (commencing with Section 1500) of Chapter 3, Chapter 3.2 (commencing with Section 1569), and Chapter 3.4 (commencing with Section 1596.70) of Division 2 of the Health and Safety Code for processing the request. The department shall destroy an application within six months after the requested information is sent to the employer and applicant.

(c) A human resource agency may request from the Department of Justice full criminal history records, to the extent those records are otherwise available under Section 226.55 of the Civil Code, or Section 1522 of the Health and Safety Code, for persons who apply to the agency to adopt a child or to be a foster parent. Requests for criminal history information obtained pursuant to this subdivision shall be used only for the purposes stated and in compliance with any requirements or conditions provided in those sections.

(d) The department shall adopt regulations to implement the provisions of this section.

(e) As used in this section, "employer" means any nonprofit corporation or other organizations specified by the Attorney General which employs or uses the services of volunteers in positions in which the volunteer or employee has supervisory or disciplinary power over a child or children.

(f) As used in this section, "human resource agency" means a public or private entity, excluding any agency responsible for licensing of facilities pursuant to the California Community Care Facilities Act (Chapter 3 (commencing with Section 1500)), the California Residential Care Facilities for the Elderly Act (Chapter 3.2 (commencing with Section 1569)), Chapter 3.01 (commencing with Section 1568.01), and the California Child Day Care Facilities Act (Chapter 3.4 (commencing with Section 1596.70)) of Division 2 of the Health and Safety Code, responsible for determining the character and fitness of a person who is (1) applying for a license, employment, or as a volunteer within the human services field that involves the care and security of children, the elderly, the

handicapped, or the mentally impaired, or (2) applying to adopt a child or to be a foster parent.

(g) As used in this section, "sex crime" means a conviction for a violation or attempted violation of Section 220, 261, 261.5, 264.1, 267, 272, 273a, 273d, 285, 286, 288, 288a, 289, 314, 647.6, or former Section 647a, or subdivision (d) of Section 647, or commitment as a mentally disordered sex offender under former Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(h) As used in this section, "drug crime" means any crime described in the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code), provided that, except as otherwise provided in subdivision (c), no record of a misdemeanor conviction shall be transmitted to the requester unless the subject of the request has a total of three or more misdemeanor or felony convictions defined in this subdivision or subdivision (g) within the immediately preceding 10-year period.

(i) As used in this section, "crime of violence" means any felony or misdemeanor conviction within 10 years of the date of the employer's request under subdivision (a), for any of the offenses specified in subdivision (c) of Section 667.5 or a violation or attempted violation of Chapter 3 (commencing with Section 207), Chapter 8 (commencing with Section 236), or Chapter 9 (commencing with Section 240) of Title 8 of Part 1, provided that, except as otherwise provided in subdivision (c), no record of a misdemeanor conviction shall be transmitted to the requester unless the subject of the request has a total of three or more misdemeanor or felony convictions defined in this subdivision or subdivision (g) within the immediately preceding 10-year period.

(j) Conviction for a violation or attempted violation of an offense committed outside the State of California is a sex crime, drug crime, or crime of violence if the offense would have been a crime as defined in this section if committed in California.

(k) Any criminal history information obtained pursuant to this section is confidential and no recipient shall disclose its contents other than for the purpose for which it was acquired.

SEC. 6. Section 1.5 of this bill incorporates amendments to Section 1522 of the Health and Safety Code proposed by both this bill and SB 994. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 1522 of the Health and Safety Code, and (3) this bill is enacted after SB 994, in which case Section 1 of this bill shall not become operative.

SEC. 7. Section 2.5 of this bill incorporates amendments to Section 1568.09 of the Health and Safety Code proposed by both this bill and SB 994. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 1568.09 of the Health and Safety Code, and (3) this

bill is enacted after SB 994, in which case Section 2 of this bill shall not become operative.

SEC. 8. Section 3.5 of this bill incorporates amendments to Section 1569.17 of the Health and Safety Code proposed by both this bill and SB 994. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 1569.17 of the Health and Safety Code, and (3) this bill is enacted after SB 994, in which case Section 3 of this bill shall not become operative.

SEC. 9. Section 4.5 of this bill incorporates amendments to Section 1596.871 of the Health and Safety Code proposed by both this bill and SB 994. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 1596.871 of the Health and Safety Code, and (3) this bill is enacted after SB 994, in which case Section 4 of this bill shall not become operative.

CHAPTER 938

An act to amend Sections 10615, 10621, 10631, 10825, 10826, and 10841 of the Water Code, relating to water.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 10615 of the Water Code is amended to read:

10615. "Plan" means an urban water management plan prepared pursuant to this part. A plan shall describe and evaluate reasonable and practical efficient uses and reclamation and conservation activities. The components of the plan may vary according to an individual community or area's characteristics and its capabilities to efficiently use and conserve water. The plan shall address measures for residential, commercial, governmental, and industrial water management as set forth in Article 2 (commencing with Section 10630) of Chapter 3. In addition, a strategy and time schedule for implementation shall be included in the plan.

SEC. 2. Section 10621 of the Water Code is amended to read:

10621. (a) Each urban water supplier shall periodically update its plan at least once every five years. After the review, it shall make any amendments or changes to its plan which are indicated by the review.

(b) The amendments to, or changes in, the plan shall be adopted and filed in the manner set forth in Article 3 (commencing with Section 10640).

SEC. 3. Section 10631 of the Water Code is amended to read:

10631. A plan shall do all of the following:

(a) Include an estimate of past, current, and projected potable and reclaimed water use and, to the extent records are available, segregate those uses between residential, industrial, commercial, and governmental uses.

(b) Identify conservation and reclamation measures currently adopted and being practiced.

(c) Describe alternative conservation measures, including, but not limited to, consumer education, metering, water saving fixtures and appliances, pool covers, lawn and garden irrigation techniques, and low water use landscaping, which would improve the efficiency of water use with an evaluation of their costs and their environmental and other significant impacts.

(d) Provide a schedule of implementation for proposed actions as indicated by the plan.

(e) Describe the frequency and magnitude of supply deficiencies, based on available historic data and future projected conditions comparing water supply and demand, including a description of deficiencies in time of drought and emergency and the ability to meet deficiencies.

(f) To the extent feasible, describe the method which will be used to evaluate the effectiveness of each conservation and reclamation measure implemented under the plan.

(g) Describe the steps which would be necessary to implement any proposed actions in the plan.

(h) Describe findings, actions, and planning relating to all of the following:

(1) The use of internal and external water audits for single-family residential, multifamily residential, institutional, commercial, industrial, and governmental customers, and the use of incentive programs to encourage customer audits and program participation.

(2) The use of distribution system water audits.

(3) Leak detection and repair.

(4) The use of large landscape water audits and incentives for conversion to water reuse.

(5) Methods to increase the use of reclaimed water in areas in which the use of potable water is not required.

(i) Describe financial incentives used to encourage the use of reclaimed water and the results of these actions in terms of acre-feet per year used.

(j) Describe water reclamation measures for agricultural irrigation, landscape irrigation, wildlife habitat enhancement, wetlands, industrial reuse, groundwater recharge, and other appropriate uses.

(k) Identify actions and incentives to facilitate the development of dual water systems for the use of reclaimed water in new construction, for flushing toilets and urinals, landscaping, golf courses, cemetaries, irrigation, and other appropriate purposes.

(l) Describe actions and planning to eliminate the use of

once-through cooling systems, nonrecirculating water systems, and nonrecycling decorative water fountains, and to encourage the recirculation of water if proper public health and safety standards are maintained.

(m) Describe actions and plans to enforce conservation and reclamation measures.

(n) To the extent feasible, describe the amount of water saved through water conservation and reclamation measures employed by user groups.

SEC. 4. Section 10825 of the Water Code is amended to read:

10825. To the extent information is available, the reports shall address all of the following:

(a) The quantity and source of water delivered to, and by, the supplier.

(b) Other sources of water used within the service area, such as groundwater and other diversions.

(c) A general description of the supplier's water delivery system and service area, including a map.

(d) Total irrigated acreage within the service area.

(e) The amount of acreage of trees and vines grown within the service area.

(f) An identification of all of the following:

(1) Current water conservation and reclamation practices being used.

(2) Plans for changing current water conservation plans.

(3) Conservation educational services being used.

(g) A determination of whether the supplier, through improved irrigation water management, has a significant opportunity to do one or both of the following:

(1) Save water by means of reduced evapotranspiration, evaporation, or reduction of flows to unusable water bodies that fail to serve further beneficial uses.

(2) Reduce the quantity of highly saline or toxic drainage water.

SEC. 5. Section 10826 of the Water Code is amended to read:

10826. To the extent information is available, the plans shall address all of the following:

(a) The quantity and source of surface water, groundwater, and reclaimed water delivered to and by the supplier.

(b) A description of all of the following:

(1) The water delivery system used in the area supplied.

(2) The beneficial uses of the water supplied, including noncrop beneficial uses.

(3) Conjunctive use programs.

(4) Incidental and planned groundwater recharge.

(5) Water reclamation programs, including treatment and distribution facilities.

(6) The amounts of the delivered water that are lost to further beneficial use to unusable bodies of water or moisture-deficient soils through the following:

(A) Crop evapotranspiration.
(B) Noncrop evapotranspiration.
(C) Evaporation from water surfaces.
(D) Surface flow or percolation.

(c) An identification of cost-effective and economically feasible measures for water conservation and reclamation, their resulting detriments and benefits, and the impacts on amounts of downstream surface water supply and immediately adjacent groundwater supply.

(d) An evaluation of other significant impacts, including impacts within the service area and downstream on fish and wildlife habitat, water quality, energy use, and other factors of either local or statewide concern or interstate concern, where applicable. Alternatives should be designed to minimize impacts on other beneficial users currently being served both within and without the service area and to result in improved overall water management.

(e) A schedule prepared by the supplier to implement those water management practices that it determines to be cost-effective and economically feasible. Priority shall be given to those water management practices, or combination of practices, that offer lower incremental costs than expanded or additional water supplies.

SEC. 6. Section 10841 of the Water Code is amended to read:

10841. (a) An agricultural water supplier required to prepare a plan may consult with, and obtain comments from, any public agency or state agency or any person who has special expertise with respect to water conservation and reclamation and management methods and techniques.

(b) In order to assist agricultural water suppliers in obtaining needed expertise as provided for in subdivision (a), the department, upon request of an agricultural water supplier, shall provide the supplier with a list of persons or agencies having expertise or experience in the development of water management plans.

(c) The department shall prepare by July 1, 1988, an outline of model informational reports and water management plans which an agricultural water supplier may use in complying with the requirements of this part.

CHAPTER 939

An act to add Section 25618 to the Public Resources Code, relating to vehicles.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. The Legislature finds and declares as follows:

(a) The operation of automobiles and light duty trucks is the

primary source of both California's air pollution and the state's dependence on foreign oil.

(b) The ever increasing number of vehicles operating in the state and the increasing number of vehicle miles driven annually causes about 40 percent more gasoline to be consumed in California today than in 1970.

(c) California, particularly areas of the state currently not in compliance with federal or state air quality regulations, would benefit from significant reductions in the volume of smog and pollution components created when vehicles burn gasoline and diesel fuel in internal combustion engines.

(d) Operating electric and other low-emission vehicles in California can contribute substantially to air quality improvements and reduce the state's oil dependency. Electric vehicle operation reduces pollution emissions by over 90 percent when compared to gasoline-powered vehicles, including the emissions produced when generating the power to charge electric vehicle batteries.

(e) California's electric utilities provide the power for electric vehicles in generating plants operating under strict environmental controls and using a wide variety of readily available fuels.

SEC. 2. It is the policy of the State of California to support development and commercialization of ultra low- and zero-emission electric vehicles within the state, and development of the necessary infrastructure to support extensive use of those vehicles throughout the state. This policy is intended to accelerate and facilitate the use of a substantial number of electric vehicles in California in order to more quickly attain significant reductions in air pollution, improve energy conservation, and reduce the state's dependence on oil, particularly imported oil.

SEC. 3. Section 25618 is added to the Public Resources Code, to read:

25618. (a) The commission shall facilitate development and commercialization of ultra low- and zero-emission electric vehicles and advanced battery technologies, as well as development of an infrastructure to support maintenance and fueling of those vehicles in California. Facilitating commercialization of ultra low- and zero-emission electric vehicles in California shall include, but not be limited to, the following:

(1) The commission may, in cooperation with county, regional, and city governments, the state's public and private utilities, and the private business sector, develop plans for accelerating the introduction and use of ultra low- and zero-emission electric vehicles throughout California's air quality nonattainment areas, and for accelerating the development and implementation of the necessary infrastructure to support the planned use of those vehicles in California. These plans shall be consistent with, but not limited to, the criteria for similar efforts contained in federal loan, grant, or matching fund projects.

(2) In coordination with other state agencies, the commission

shall seek to maximize the state's use of federal programs, loans, and matching funds available to states for ultra low- and zero-emission electric vehicle development and demonstration programs, and infrastructure development projects.

(b) Priority for implementing demonstration projects under this section shall be directed toward those areas of the state currently in a nonattainment status with federal and state air quality regulations.

CHAPTER 940

An act to amend Section 30794 of the Streets and Highways Code, relating to bridges.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 30794 of the Streets and Highways Code is amended to read:

30794. (a) The department may establish exclusive or preferential use of lanes on the new Dumbarton Bridge and the San Mateo Bridge and the approaches to those bridges for high-occupancy vehicles.

(b) For the purposes of this section, the new Dumbarton Bridge is that portion of State Highway Route 84 between the new Dumbarton Bridge Toll Plaza on the east side of the bay and the intersection of University Avenue on the west side of the bay.

(c) For the purposes of this section, the new Dumbarton Bridge approaches are all of the following:

(1) That portion of State Highway Route 84 between State Highway Route 101 and the bridge on the west side of the bay, known as the "Route 84 connection."

(2) That portion of University Avenue between Kavanaugh Drive and State Highway Route 84, known as the "University Avenue connection."

(3) That roadway, known as the Marsh Road connection, sometimes called the Northerly Connector, to be built from the intersection of Haven Avenue and Marsh Road, proceeding in an easterly direction to State Highway Route 84, extending along a 100-foot wide right-of-way, formerly subject to an easement held by the San Francisco Water Department.

(4) That portion of State Highway Route 84 between State Highway Route 880 and the bridge on the east side of the bay.

(d) As used in this section, "high-occupancy vehicle" means any vehicle containing two or more persons, except that the department may increase that number to three or more pursuant to subdivision (e).

(e) (1) The department shall, for purposes of this section, develop criteria for high-occupancy vehicle lanes and the occupancy requirements for vehicles using those lanes which include, but are not limited to, all of the following:

(A) Traffic congestion based on the vehicles per hour per lane rate.

(B) Highway safety.

(C) Traffic volume forecasts.

(D) Available support facilities for high-occupancy vehicles, including, but not limited to, park-and-ride lots and transit facilities.

(E) Traffic enforcement safety.

(F) Conformity with vehicle occupancy requirements of the surrounding area, particularly those for connecting high-occupancy vehicle routes.

(G) Maximum utilization of lanes.

(H) Consistency with objectives and strategies of congestion management agencies.

(I) Conformity with regionally adopted transportation control measures, approved air quality management plans, and regional transportation plans.

(2) The department shall, using the criteria developed pursuant to paragraph (1), prepare an engineering analysis of the requirements for high-occupancy vehicles and both existing and planned high-occupancy vehicle lanes on the bridges and the approaches to the bridges. Any proposed increase in the number of occupants required for a vehicle to come within the definition a high-occupancy vehicle shall be implemented only after consulting with the Metropolitan Transportation Commission and holding a public meeting.

(3) The department shall notify the Legislature, at least 30 days prior to holding the public meeting required by paragraph (2), of any proposed increase in the number of occupants required for a vehicle to come within the definition of a high-occupancy vehicle.

CHAPTER 941

An act relating to tidelands and submerged lands granted by the state to the City of Long Beach, and in this connection, to amend Section 6 of Chapter 138 of the Statutes of 1964 (First Extraordinary Session), and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. (a) The State Lands Commission is authorized to negotiate and execute, on behalf of the State of California, a contract with a private contractor and the City of Long Beach for the implementation by the contractor and the City of Long Beach of an optimized waterflood program for the Long Beach Unit. Neither this act nor the contract shall supersede or amend in any respect the existing contractors' agreements for Tracts 1 and 2 of the Long Beach Unit (except to extend their terms), the Long Beach Unit Agreement, the Long Beach Unit Operating Agreement, or any other existing contract relating to the drilling for, developing, extracting, processing, taking, or removing of oil, gas, and other hydrocarbons from Tracts 1 and 2 of the Long Beach Unit.

(b) As used in this act:

(1) "Commission" means the State Lands Commission.

(2) "City" means the City of Long Beach.

(3) "Contractor" means a person or entity contracting with the commission and the city pursuant to subdivision (a).

(4) "Chapter 138" means Chapter 138 of the Statutes of 1964, First Extraordinary Session.

SEC. 2. (a) The contract authorized pursuant to Section 1 shall obligate the contractor to bear, in the first instance, the State of California's share of incremental costs. The contractor shall satisfy this obligation by making payments to the city reimbursing the state for the revenue it otherwise loses as a result of implementing the program.

(b) (1) The contract shall include a method agreed upon by the commission and the contractor for determining the volumes of oil produced from the Long Beach Unit that constitute base production and incremental production. The contract shall obligate the state to pay monthly to the contractor 50 percent of the state's share of net profits attributable to incremental production from Tracts 1 and 2 during the first eight years of the optimized waterflood program and 49 percent during year nine and each year thereafter of the optimized waterflood program. The contract shall also obligate the state to pay monthly to the city, after the contractor has been compensated for its forebearance of the state's share of incremental costs as provided in the contract, the following percentages of the state's share of net profits attributable to incremental production from Tract 1:

(A) During the first four years of the optimized waterflood program, zero percent.

(B) During years five to eight, inclusive, of the optimized waterflood program, 3.75 percent.

(C) During year nine and each year thereafter of the optimized waterflood program, 8.5 percent.

(2) These payments shall be made monthly to the contractor and to itself by the city prior to any distribution between the commission

and the city from "remaining oil revenue," as defined in Section 4 of Chapter 138.

(c) The contract shall grant to the contractor the powers, duties, and authority necessary to accomplish the optimized waterflood program as are agreed to by the commission and the contractor and which shall be consistent with Chapter 138, as supplemented by this act, and with the Long Beach Unit Agreement and the Long Beach Unit Operating Agreement.

(d) The contract shall provide, as part of the consideration to be paid to the State of California by the contractor, the quitclaim of state oil and gas leases 308 and 309 covering tide and submerged lands in Santa Barbara County. Those lands, when they become fully vested in the state, free of the quitclaimed leases, shall be subject to the restrictions on leasing for the extraction of oil and gas applicable to those lands listed in subdivision (b) of Section 6871.2 of the Public Resources Code or any successor statute applicable to those lands.

SEC. 3. (a) In order to implement the optimized waterflood program, the contractor and the city shall prepare plans of development for the Long Beach Unit. Each plan shall cover a period of five years and shall be reviewed and replaced every two years. Each plan also shall include for each of its first two years all of the matters required to be included in annual plans of development and operation as provided by Section 5 of Chapter 138. The plans shall be subject to review and revision by the commission for consistency with good oil field practice, the optimized waterflood program, and the Long Beach Unit and Unit Operating Agreements and environmental and safety concerns. Subject to subdivision (c) of Section 5 of Chapter 138 and subdivision (j) of this section, the contractor and the city shall revise the plan to incorporate the changes ordered by the commission where the commission has found the changes to be necessary to assure that the plan (1) is consistent with good oil field practice, (2) is consistent with the optimized waterflood program, (3) is consistent with the Long Beach Unit and Unit Operating Agreements, or (4) does not involve significant safety or environmental risks. The contractor or the city, or both, may apply to a court of competent jurisdiction for review of the changes ordered by the commission. Subject to subdivision (c) of Section 5 of Chapter 138, the plan adopted by the contractor and the city with whatever changes are ordered by the commission shall go into effect and remain in effect, subject to any additional approvals that may be required by the Long Beach Unit Agreement, unless and until a court of competent jurisdiction determines in the exercise of its independent judgment that any changes ordered by the commission are not reasonable. In the event of such a judicial determination, the plan shall be altered as ordered by the court.

(b) The contract shall provide for the interim modification by the contractor and the city of the five-year plans of development from time to time, as necessary or appropriate, subject to review and revision by the commission in accordance with subdivision (a).

(c) The contractor and the city shall prepare annually a one-year plan for the implementation of the current five-year plan of development in accordance with the requirements of subdivision (a) of Section 5 of Chapter 138. The one-year plan shall consist of the applicable portion of the five-year plan described in subdivision (b), plus a budget of intended expenditures. The contract shall provide that any budgetary disputes between the contractor and the city are to be resolved by the commission in accordance with the contract. The contract shall also provide for the commission to resolve any such budgetary disputes that may arise in connection with any modifications to an annual plan. Subject to subdivisions (a) and (d), if applicable, the one-year plans of development may be modified in accordance with the procedures set out in the contract.

(d) Each proposed budget and each proposed modification to a budget included in an annual plan shall be subject to review and revision by the commission for consistency with the current five-year plan. Subject to subdivision (c) of Section 5 of Chapter 138, subdivision (j) of this section, and the limitations set forth in the contract, the contractor and the city shall revise each budget or modification to a budget to incorporate changes ordered by the commission where the commission has found the changes to be necessary to assure the consistency of the budget with the five-year plan. The city may apply to a court of competent jurisdiction for review of the changes ordered by the commission. Subject to subdivision (c) of Section 5 of Chapter 138 and the limitations set forth in the contract, the budget or the modification to a budget adopted by the contractor and the city with whatever changes are ordered by the commission shall go into effect and remain in effect, subject to any additional approvals that may be required by the Long Beach Unit Agreement, unless a court of competent jurisdiction determines in the exercise of its independent judgment that any changes ordered by the commission are not reasonable. In the event of such a judicial determination, the budget shall be altered as ordered by the court.

(e) The adoption of an annual plan provided for in subdivisions (c) and (d), and any and all modifications thereof, shall constitute the adoption of that plan or modification by the state, subject to the rights of the state under subdivision (d), and the city for all purposes, including Article 4 of the Long Beach Unit Agreement, and the contract shall provide for the state, the city, and the contractor to take any actions which may be necessary to cause each such annual plan to be approved, if required, in accordance with the Long Beach Unit Agreement.

(f) Subject to the approval, if required, of any parties to the Long Beach Unit Agreement other than the state, the city, or the contractor, the city, acting with the consent of the contractor, may cause the expenditure of funds for Long Beach Unit operations in excess of the amount of any category of expenditures provided for in the budget of an annual plan, up to a maximum of 120 percent of

the budgeted amount for that category.

(g) In order to carry out the purposes of this section and to effect a speedy determination of any disagreement between the commission and either, or both, the contractor and the city, the Superior Court for the County of Los Angeles shall give any proceeding filed in that court under this section priority over other civil matters, and any court of competent jurisdiction in which the proceeding is filed shall have the power to issue appropriate temporary orders.

(h) This section shall become inoperative upon the termination of the contractual provisions relating to the optimized waterflood program for the Long Beach Unit. Subdivisions (b), (d), and (g) of Section 5 of Chapter 138 shall be inoperative during the period this section remains operative.

(i) The contract shall specify time periods for the reviews and revisions by the commission provided for in this section.

(j) The contract shall provide the contractor with the discretionary authority to undertake expenditures up to a maximum annual amount provided in the contract subject only to a more limited review by the commission as provided in the contract.

SEC. 4. (a) If the optimized waterflood program has not been terminated in accordance with the provisions of the contract authorized in Section 1 by January 1, 1995, the terms of the existing contractors' agreements for Tracts 1 and 2 of the Long Beach Unit shall be extended, as of June 30, 1995, to the date on which the Long Beach Unit Agreement is terminated, notwithstanding anything to the contrary in Chapter 138, any other provision of law, the Long Beach City Charter, or any law or ordinance of the city. However, nothing in this act shall limit the application of any law or regulation which is intended to protect or may protect the environment. If the contracts are extended, each of the parties that is a contractor or a person comprising a contractor under the contractors' agreement for Tracts 1 and 2 as of January 1, 1995, shall have the option, but not the obligation, to continue its interest for the extended term, provided that it exercises its option in writing by June 30, 1995. The contractor described in Section 1 of this act shall have the obligation to assume the extended term of any contractor or any person comprising a contractor that does not so exercise the option to extend.

(b) Subdivision (f) of Section 3 of Chapter 138 is inapplicable to the extensions referred to in subdivision (a) of this section.

SEC. 5. Notwithstanding any provision of subdivision (e) of Section 4 of Chapter 138, the city shall, for a period of eight years, commencing January 1, 1992, retain 50 percent of the interest earned for the preceding calendar year on the "reserve for subsidence contingencies" as established pursuant to subdivision (f) of Section 4 of Chapter 138, in addition to the one million dollars ($1,000,000) retained by the city from remaining oil revenue, as so defined. Commencing January 1, 2000, for a period of four years, the city shall pay to the state 50 percent of the interest earned on the "reserve for

subsidence contingencies." Neither the city nor the state shall be entitled to retain or receive any further interest earned in the "reserve for subsidence contingencies" if the optimized waterflood program is terminated in accordance with the contract authorized in Section 1. In that event, the money shall remain in the "reserve for subsidence contingencies." The sums retained by the city shall be utilized by the city in accordance with the provisions of Section 6 of Chapter 138.

SEC. 6. The Legislature hereby finds that, notwithstanding the retention by the City of Long Beach and the state of a portion of the interest earned on the "reserve for subsidence contingencies" pursuant to Section 5, the "reserve for subsidence contingencies" will contain sufficient funds to pay any and all of the claims, judgments, and costs enumerated in subdivision (f) of Section 4 of Chapter 138.

SEC. 7. The Legislature finds and declares that the provisions of this act are necessary for the promotion of the public interest and are of statewide concern. To the extent that any provision of this act conflicts with Chapter 138, any other provision of law, the Long Beach City Charter, or any law or ordinance of the city, the provisions of this act shall prevail. However, nothing in this act shall limit the application of any law or regulation which is intended to protect or may protect the environment. No person or entity shall have liability to any other person or entity by reason of the preparation, execution, or delivery of any and all contracts provided for in this act. However, nothing in this act shall relieve any person or entity from liabilities imposed by those contracts or for operations conducted pursuant to those contracts.

SEC. 8. Section 6 of Chapter 138 of the Statutes of 1964 (First Extraordinary Session) is amended to read:

Sec. 6. The Legislature hereby finds that the remaining oil revenue hereinabove allocated to the City of Long Beach is needed and can be economically utilized by the city for the fulfillment of the trust uses and purposes described in the acts of 1911, 1925, and 1935 and described as follows in this act, which are hereby found to be matters of state, as distinguished from local, interest and benefit.

(a) The construction, reconstruction, improvement, repair, operation and maintenance of works, lands, waterways, and facilities necessary for the harbor within the boundaries of the harbor district of the city (as those boundaries were defined on April 1, 1956).

(b) The construction, reconstruction, repair, operation, and maintenance of streets, roadways, bridges, and bridge approaches within the boundaries of, or reasonably necessary to provide immediate access to, the harbor district (as such boundaries were defined on April 1, 1956).

(c) The construction, reconstruction, repair, operation, and maintenance of the bulkheads, piers, earthfills, streets, roadways, bridges, bridge approaches, buildings, structures, recreational facilities, landscaping, parking lots, and other improvements on or

adjacent to the Long Beach tidelands or on or adjacent to the Alamitos Beach Park Lands for the benefit and use of those tidelands or the Alamitos Beach Park Lands.

(d) The construction, reconstruction, repair, operation, and maintenance of small boat harbors, marine stadiums, maritime museum, marine parks, beaches, waterways, and related facilities, on or adjacent to the Long Beach tidelands or on or adjacent to the Alamitos Beach Park Lands, or on or adjacent to aquatic recreational areas of the aforesaid nature.

(e) The acquisition, filling, improvement, rehabilitation, and disposal of lands, which have, prior to January 1, 1964, been damaged by subsidence, located in the City of Long Beach westerly of Alamitos Avenue, easterly of the harbor district and southerly of Ocean Boulevard (as those streets and that district now exist).

(f) The acquisition of property or the rendition of services reasonably necessary to the carrying out of the foregoing uses and purposes.

(g) In addition to the foregoing, expenditures for any other use or purpose of state, as distinguished from purely local, interest and benefit which are in fulfillment of those trust uses and purposes described in the acts of 1911, 1925, and 1935, and which are approved in advance by the State Lands Commission.

(h) As to any expenditure of oil revenue for a capital improvement involving an amount in excess of one hundred thousand dollars ($100,000) proposed to be made under subdivisions (a) to (f), inclusive, of this section, the City of Long Beach shall file with the State Lands Commission an adequate detailed description of such capital improvement not less than 60 days prior to the time of any disbursement therefor or in connection therewith. The description shall specify, in addition, the particular subdivision or subdivisions of this section which the city deems applicable and its reasons, if necessary, for regarding such expenditure as being so authorized. The commission shall have 60 days after the time of such filing within which to notify the city that such capital improvement is not authorized by any of such subdivisions. In the event the commission so notifies the city, a copy of the opinion of the Attorney General (or other legal counsel of the commission) upon which such disapproval has been based shall be delivered to the city. In the event the commission notifies the city that such capital improvement is not authorized, the city shall not disburse any oil revenue for or in connection with that capital improvement for a period of 30 days following such notice, during which period or afterwards the State Lands Commission may seek any judicial relief in any court of competent jurisdiction which it deems appropriate.

In order to carry out the purposes of this section and to effect a speedy determination of any disagreement between the city and the commission, the Superior Court of the State of California for the County of Los Angeles (in the event such proceeding is filed in that court) shall give any proceeding filed by the city or state under this

section priority over other civil matters.

SEC. 9. Sections 2 to 8, inclusive, of this act shall become operative only if the State Lands Commission executes on behalf of the State of California the contract referred to in subdivision (a) of Section 1 of this act.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to implement an urgently needed optimized waterflood program for the Long Beach Unit at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 942

An act to amend Sections 800.4, 800.40, 800.49, 800.88, 800.100, 800.301, and 800.302 of, and to add Sections 800.35, 800.36, and 800.37 to, the Civil Code, to amend Section 1161a of the Code of Civil Procedure, to add Section 65863.12 to the Government Code, to amend Section 18038.7 of the Health and Safety Code, and to amend Sections 459 and 460 of the Penal Code, relating to floating homes.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 800.4 of the Civil Code is amended to read:

800.4. "Floating home marina" means an area where five or more floating home berths are rented, or held out for rent, to accommodate floating homes, but does not include a marina where 10 percent or fewer of the berths are leased or held out to lease to floating homes nor a marina or harbor (a) which is managed by a nonprofit organization, the property, assets, and profits of which may not inure to any individual or group of individuals, but only to another nonprofit organization; (b) the rules and regulations of which are set by majority vote of the berthholders thereof; and (c) which contains berths for fewer than 25 floating homes.

SEC. 2. Section 800.35 is added to the Civil Code, to read:

800.35. (a) The management of a floating home marina may enter a floating home, which is owned by the marina, only upon the prior written consent of the renter, except:

(1) In case of an emergency.

(2) Upon reasonable notice and during regular business hours, to make necessary or agreed repairs.

(3) When the homeowner has abandoned the premises.

(4) Pursuant to court order.

(b) The management of a floating home marina may enter a

floating home, not owned by the marina, only upon prior written consent, except:

(1) In case of an emergency.

(2) When the homeowner has abandoned the premises.

(3) Pursuant to a court order.

SEC. 3. Section 800.36 is added to the Civil Code, to read:

800.36. (a) A floating home not owned by a floating home marina shall be deemed abandoned by the homeowner, and the lease shall terminate, if the floating home marina gives written notice of its belief of abandonment as provided in this section and the homeowner fails to give the marina written notice, prior to the date of termination specified in the marina's notice, stating that he or she does not intend to abandon the floating home and stating an address at which the homeowner may be served by certified mail in any action for unlawful detainer of the marina.

(b) The marina may give a notice of belief of abandonment to the homeowner pursuant to this section only where the rent on the marina has been due and unpaid for at least 45 consecutive days and the marina management reasonably believes that the homeowner has abandoned the floating home. The date of termination of the lease shall be specified in the marina's notice and shall be not less than 15 days after the notice is served personally or, if mailed, not less than 18 days after the notice is deposited in the mail.

(c) The marina's notice of belief of abandonment shall be personally delivered to the homeowner or sent by first-class mail, postage prepaid, to the homeowner at his or her last known address and, if there is reason to believe that the notice sent to that address will not be received by the homeowner, also to such other address, if any, known to the marina where the homeowner may reasonably be expected to receive the notice.

(d) The notice of belief of abandonment shall be in substantially the following form:

Notice of Belief of Abandonment

To:

_____

(Name of homeowner)

_____

(Address of homeowner)

This notice is given pursuant to Section 800.36 of the Civil Code concerning the floating home marina leased by you at _____ (state location of the property by address or other sufficient description). The rent on this marina has been due and unpaid for 45 consecutive days and the marina believes that you have abandoned the floating home.

The floating home will be deemed abandoned within the meaning of Section 1951.2 of the Civil Code and your lease will terminate on _____ (here insert a date not less than 15 days after this notice is

served personally or, if mailed, not less than 18 days after this notice is deposited in the mail) unless before that date the undersigned receives at the address indicated below a written notice from you stating both of the following:

(1) Your intent not to abandon the floating home.

(2) An address at which you may be served by certified mail in any action for unlawful detainer of the floating home marina.

You are required to pay the rent due and unpaid on this marina as required by the lease, and your failure to do so can lead to a court proceeding against you.

Dated: _____

_____

(Signature of marina manager/owner)

_____

(Type or print name of marina manager/owner)

_____

(Address to which the homeowner is to send notice)

(e) The floating home shall not be deemed to be abandoned pursuant to this section if the homeowner proves any of the following:

(1) At the time the notice of belief of abandonment was given, the rent was not due and unpaid for 45 consecutive days.

(2) At the time the notice of belief of abandonment was given, it was not reasonable for the marina to believe that the homeowner had abandoned the floating home. The fact that the marina management knew that the homeowner left personal property on the floating home does not, of itself, justify a finding that the marina management did not reasonably believe that the homeowner had abandoned the floating home.

(3) Prior to the date specified in the marina's notice, the homeowner gave written notice to the lessor stating his or her intent not to abandon the floating home and stating an address at which he or she may be served by certified mail in any action for unlawful detainer of the marina.

(4) During the period commencing 45 days before the time the notice of belief of abandonment was given and ending on the date the lease would have terminated pursuant to the notice, the homeowner paid to the marina all or a portion of the rent due and unpaid.

(f) Nothing in this section precludes the marina or the homeowner from otherwise proving that the floating home has been abandoned by the homeowner within the meaning of Section 1951.2.

(g) Nothing in this section precludes the marina from serving a notice requiring the homeowner to pay rent or quit as provided in Section 800.71 at any time permitted by that section, or affects the time and manner of giving any other notice required or permitted by law. The giving of the notice provided by this section does not satisfy the requirements of Sections 1161 and 1162 of the Code of Civil

Procedure.

SEC. 4. Section 800.37 is added to the Civil Code, to read:

800.37. A floating home which is owned by a floating home marina shall be deemed abandoned according to the procedures and requirements of Section 1951.3.

SEC. 5. Section 800.40 of the Civil Code is amended to read:

800.40. The management shall give a homeowner written notice of any increase in his or her rent at least 30 days before the date of the increase, and the reason for the increase, including the basis for any calculation used in determining the amount of the increase.

SEC. 6. Section 800.49 of the Civil Code is amended to read:

800.49. (a) The management may only demand a security deposit on or before initial occupancy and the security deposit may not be in an amount or value in excess of an amount equal to two months' rent that is charged at the inception of the tenancy, in addition to any rent for the first month. In no event shall additional security deposits be demanded of a homeowner following initial occupancy.

(b) After the homeowner has promptly paid to the management within five days of the date the amount is due, all of the rent, utilities, and reasonable service charges for any 12-consecutive-month period subsequent to the collection of the security deposit by the management, or upon resale of the floating home, whichever occurs earlier, the management shall, upon the receipt of a written request from the homeowner, refund to the homeowner the amount of the security deposit within 30 days following the end of the 12-consecutive-month period of prompt payment or the date of the resale of the floating home.

(c) In the event that the interest in the floating home marina is transferred to any other party or entity, the successor in interest shall have the same obligations of management contained in this section with respect to the security deposit.

(d) The management shall not be required to place any security deposit collected in an interest-bearing account or to provide a homeowner with any interest on the security deposit collected.

(e) This section applies to all security deposits collected on or after January 1, 1991.

SEC. 7. Section 800.88 of the Civil Code is amended to read:

800.88. An heir or joint tenant who gains ownership of a floating home in the floating home marina through the death of the owner of the floating home who is a homeowner shall have the right to sell the floating home to a third party in accordance with this article, but only if all the homeowner's responsibilities and liabilities to the management regarding rent, utilities, and reasonable maintenance of the floating home and its premises which have arisen after the transfer of ownership to the heir or joint tenant have been satisfied up until the date the floating home is resold.

SEC. 8. Section 800.100 of the Civil Code is amended to read:

800.100. (a) When the owner of a floating home marina enters

into a written listing agreement with a licensed real estate broker, as defined in Article 1 (commencing with Section 10130) of Chapter 2 of Part 1 of Division 4 of the Business and Professions Code, for the sale of the marina or offers to sell the marina to any party, the owner shall provide written notice by first-class mail or by personal delivery to the president, secretary, and treasurer of the resident organization, not less than 30 days but no more than one year prior to entering into any written listing agreement for the sale of the marina, or making any offer to sell the marina to any party. An offer to sell a marina shall not be construed as an offer under this subdivision unless it is initiated by the marina owner or his or her agent.

(b) An owner of a floating home marina is not required to comply with subdivision (a) unless the following conditions are met:

(1) The resident organization has first furnished the marina owner or marina manager a written notice of the name and address of the president, secretary, and treasurer of the resident organization to whom the notice of sale shall be given.

(2) The resident organization has first notified the marina owner or manager in writing that the marina residents are interested in purchasing the marina. The initial notice by the resident organization shall be made prior to a written listing or offer to sell the marina by the marina owner, and the resident organization shall give subsequent notice once each year thereafter that the marina residents are interested in purchasing the marina.

(3) The resident organization has furnished the marina owner or marina manager a written notice, within five days, of any change in the name or address of the officers of the resident organization to whom the notice of sale shall be given.

(c) Nothing in this section affects the validity of title to real property transferred in violation of this section, although a violation shall subject the seller to civil action pursuant to Article 9 (commencing with Section 800.200) by homeowner residents of the marina or by the resident organization.

(d) Nothing in this section affects the ability of a licensed real estate broker to collect a commission pursuant to an executed contract between the broker and the floating home marina owner.

(e) This section does not apply to any of the following:

(1) Any sale or other transfer by a marina owner who is a natural person to any relation specified in Section 6401 or 6402 of the Probate Code.

(2) Any transfer by gift, devise, or operation of law.

(3) Any transfer by a corporation to an affiliate. As used in this paragraph, "affiliate" means any shareholder of the transferring corporation, any corporation or entity owner or controlled, directly or indirectly, by the transferring corporation, or any other corporation or entity controlled, directly or indirectly, by any shareholder of the transferring corporation.

(4) Any transfer by a partnership to any of its partners.

(5) Any conveyance resulting from the judicial or nonjudicial foreclosure of a mortgage or deed of trust encumbering a floating home marina or any deed given in lieu of such a foreclosure.

(6) Any sale or transfer between or among joint tenants or tenants in common owning a floating home marina.

(7) The purchase of a floating home marina by a governmental entity under its powers of eminent domain.

SEC. 9. Section 800.301 of the Civil Code is amended to read:

800.301. A resident may advertise the sale or exchange of his or her floating home or, if not prohibited by the terms of an agreement with the management or ownership, may advertise the rental of his or her floating home by displaying a sign in the window of his or her floating home stating that the floating home is for sale or exchange or, if not prohibited, for rent by the owner of the floating home or his or her agent. The sign shall state the name, address, and telephone number of the owner of the floating home or his or her agent, and shall be 24 inches in width and 18 inches in length.

SEC. 10. Section 800.302 of the Civil Code is amended to read:

800.302. The ownership or management shall not show or list for sale a floating home owned by a resident without first obtaining the resident's written authorization. The authorization shall specify the terms and conditions regarding the showing or listing.

SEC. 11. Section 1161a of the Code of Civil Procedure is amended to read:

1161a. (a) As used in this section:

(1) "Manufactured home" has the same meaning as provided in Section 18007 of the Health and Safety Code.

(2) "Mobilehome" has the same meaning as provided in Section 18008 of the Health and Safety Code.

(3) "Floating home" has the same meaning as provided in subdivision (d) of Section 18075.55 of the Health and Safety Code.

(b) In any of the following cases, a person who holds over and continues in possession of a manufactured home, mobilehome, floating home, or real property after a three-day written notice to quit the property has been served upon the person, or if there is a subtenant in actual occupation of the premises, also upon such subtenant, as prescribed in Section 1162, may be removed therefrom as prescribed in this chapter:

(1) Where the property has been sold pursuant to a writ of execution against such person, or a person under whom such person claims, and the title under the sale has been duly perfected.

(2) Where the property has been sold pursuant to a writ of sale, upon the foreclosure by proceedings taken as prescribed in this code of a mortgage, or under an express power of sale contained therein, executed by such person, or a person under whom such person claims, and the title under the foreclosure has been duly perfected.

(3) Where the property has been sold in accordance with Section 2924 of the Civil Code, under a power of sale contained in a deed of trust executed by such person, or a person under whom such person

claims, and the title under the sale has been duly perfected.

(4) Where the property has been sold by such person, or a person under whom such person claims, and the title under the sale has been duly perfected.

(5) Where the property has been sold in accordance with Section 18037.5 of the Health and Safety Code under the default provisions of a conditional sale contract or security agreement executed by such person, or a person under whom such person claims, and the title under the sale has been duly perfected.

(c) Notwithstanding the provisions of subdivision (b), a tenant or subtenant in possession of a rental housing unit which has been sold by reason of any of the causes enumerated in subdivision (b), who rents or leases the rental housing unit either on a periodic basis from week to week, month to month, or other interval, or for a fixed period of time, shall be given written notice to quit pursuant to Section 1162, at least as long as the term of hiring itself but not exceeding 30 days, before the tenant or subtenant may be removed therefrom as prescribed in this chapter.

(d) For the purpose of subdivision (c), "rental housing unit" means any structure or any part thereof which is rented or offered for rent for residential occupancy in this state.

SEC. 12. Section 65863.12 is added to the Government Code, to read:

65863.12. (a) Prior to the conversion of a floating home marina to another use, except pursuant to the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7), or prior to closure of a floating home marina or cessation of use of the land as a floating home marina, the person or entity proposing the change in use shall file a report on the impact of the conversion, closure, or cessation of use upon the displaced residents of the floating home marina to be converted or closed. In determining the impact of the conversion, closure, or cessation of use on displaced floating home marina residents, the report shall address the availability of adequate replacement housing in floating home marinas and relocation costs.

(b) The person proposing the change in use shall provide a copy of the report to a resident of each floating home in the floating home marina at least 15 days prior to the hearing, if any, on the impact report by the advisory agency, or if there is no advisory agency, by the legislative body.

(c) When the impact report is filed prior to the closure or cessation of use, the person or entity proposing the change shall provide a copy of the report to a resident of each floating home in the floating home marina at the same time as the notice of the change is provided to the residents pursuant to subdivision (f) of Section 800.71 of the Civil Code.

(d) When the impact report is filed prior to the closure or cessation of use, the person or entity filing the report or any resident may request, and shall have a right to, a hearing before the legislative body on the sufficiency of the report.

(e) The legislative body, or its delegated advisory agency, shall review the report, prior to any change of use, and may require, as a condition of the change, the person or entity to take steps to mitigate any adverse impact of the conversion, closure, or cessation of use on the ability of displaced floating home marina residents to find adequate housing in a floating home marina. The steps required to be taken to mitigate shall not exceed the reasonable costs of relocation.

(f) If the closure or cessation of use of a floating home marina results from an adjudication of bankruptcy, the provisions of this section shall not be applicable.

(g) The legislative body may establish reasonable fees pursuant to Chapter 13 (commencing with Section 54990) of Part 1 of Division 2 of Title 5 to cover any costs incurred by the local agency in implementing this section. Those fees shall be paid by the person or entity proposing the change in use.

(h) This section is applicable to charter cities.

(i) This section is applicable when the closure, cessation, or change of use is the result of a decision by a local governmental entity or planning agency not to renew a conditional use permit or zoning variance under which the floating home marina has operated, or as a result of any other zoning or planning decision, action, or inaction. However, a state or local governmental agency is not required to take steps to mitigate the adverse impact of the change pursuant to subdivision (e).

(j) This section applies to any floating home marina as defined in Section 800.4 of the Civil Code, and to any marina or harbor (1) which is managed by a nonprofit organization, the property, assets, and profits of which may not inure to any individual or group of individuals, but only to another nonprofit organization; (2) the rules and regulations of which are set by majority vote of the berthholders thereof; and (3) which contains berths for fewer than 25 floating homes.

SEC. 13. Section 18038.7 of the Health and Safety Code is amended to read:

18038.7. No deficiency judgment shall lie in any event, after the sale of any manufactured home, mobilehome, commercial coach, truck camper, or floating home subject to registration pursuant to this part, for failure of the purchaser to complete his or her sale contract given to the seller to secure payment of the balance of the purchase price of the manufactured home, mobilehome, commercial coach, truck camper, or floating home. This section shall not apply in the event there is substantial damage to the manufactured home, mobilehome, commercial coach, truck camper, or floating home other than wear and tear from normal usage.

In addition, no deficiency judgment shall lie in any event under a deed of trust or mortgage or note on a floating home serving as a dwelling for not more than four families given to a lender to secure payment of a loan which was in fact used to pay for all or part of the

purchase price of that dwelling occupied, entirely or in part, by the purchaser.

SEC. 14. Section 459 of the Penal Code is amended to read:

459. Every person who enters any house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse or other building, tent, vessel, as defined in Section 21 of the Harbors and Navigation Code, floating home, as defined in subdivision (d) of Section 18075.55 of the Health and Safety Code, railroad car, locked or sealed cargo container, whether or not mounted on a vehicle, trailer coach, as defined in Section 635 of the Vehicle Code, any house car, as defined in Section 362 of the Vehicle Code, inhabited camper, as defined in Section 243 of the Vehicle Code, vehicle as defined by the Vehicle Code, when the doors are locked, aircraft as defined by Section 21012 of the Public Utilities Code, or mine or any underground portion thereof, with intent to commit grand or petit larceny or any felony is guilty of burglary. As used in this chapter, "inhabited" means currently being used for dwelling purposes, whether occupied or not. A house, trailer, vessel designed for habitation, or portion of a building is currently being used for dwelling purposes if, at the time of the burglary, it was not occupied solely because a natural or other disaster caused the occupants to leave the premises.

SEC. 15. Section 460 of the Penal Code is amended to read:

460. (a) Every burglary of an inhabited dwelling house, vessel, as defined in the Harbors and Navigation Code, which is inhabited and designed for habitation, floating home, as defined in subdivision (d) of Section 18075.55 of the Health and Safety Code, or trailer coach, as defined by the Vehicle Code, or the inhabited portion of any other building, is burglary of the first degree.

(b) All other kinds of burglary are of the second degree.

(c) This section shall not be construed to supersede or affect Section 464 of the Penal Code.

SEC. 16. Pursuant to Section 17579 of the Government Code, the Legislature finds that there is no mandate contained in this act which will result in costs incurred by a local agency or school district for a new program or higher level of service which require reimbursement pursuant to Section 6 of Article XIII B of the California Constitution and Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 943

An act to amend Sections 11478 and 11478.5 of, and to add Section 11478.1 to, the Welfare and Institutions Code, relating to aid to families with dependent children.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 11478 of the Welfare and Institutions Code is amended to read:

11478. All state, county, and local agencies shall cooperate in the enforcement of any child support obligation or to the extent required under the state plan under Section 11475.2 and Section 1650 of the Code of Civil Procedure, spousal support orders and in the location of parents who have abandoned or deserted children, irrespective of whether the children are or are not receiving aid to families with dependent children, and shall, on request, supply the county department, the Department of Justice, any county probation officer, the district attorney of any county in this state, or the California Parent Locator Service with all information on hand relative to the location, income, or property of any absent parents, spouses, or former spouses, notwithstanding any other provision of law making the information confidential, and with all information on hand relative to the location and prosecution of any person who has, by means of false statement or representation or by impersonation or other fraudulent device, obtained aid for a child under this chapter.

SEC. 2. Section 11478.1 is added to the Welfare and Institutions Code, to read:

11478.1. (a) It is the intent of the Legislature to protect individual rights of privacy, and to facilitate and enhance the effectiveness of the child and spousal support enforcement program, by ensuring the confidentiality of support enforcement records, and to thereby encourage the full and frank disclosure of information relevant to all of the following:

(1) The establishment or maintenance of parent and child relationships and support obligations.

(2) The enforcement of the child support liability of absent parents.

(3) The enforcement of spousal support liability of the spouse or former spouse to the extent required by the state plan under Section 11475.2 and Section 1650 of the Code of Civil Procedure.

(4) The location of absent parents.

(b) Except as provided in subdivision (c), all files, applications, papers, documents, and records established or maintained by any public entity pursuant to the administration and implementation of

the child and spousal support enforcement program established pursuant to Part D (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United States Code and this article, shall be confidential, and shall not be open to examination or released for disclosure for any purpose not directly connected with the administration of the child and spousal support enforcement program. No public entity shall disclose any file, application, paper, document, or record, or the information contained therein, except as expressly authorized by this section.

(c) Disclosure of the information described in subdivision (b) is authorized as follows:

(1) All files, applications, papers, documents and records as described in subdivision (b) shall be available and may be used by a public entity for all administrative, civil, or criminal investigations, actions, proceedings, or prosecutions conducted in connection with the administration of the child and spousal support enforcement program approved under Part D (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United States Code, and any other plan or program described in Section 303.21 of Title 45 of the Code of Federal Regulations.

(2) A document requested by a person who wrote, prepared, or furnished the document may be examined by or disclosed to that person or his or her designee.

(3) The payment history of an obligor pursuant to a support order may be examined by or released to the court, the obligor, or the person on whose behalf enforcement actions are being taken or that person's designee.

(4) Public records subject to disclosure under the Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of the Government Code) may be released.

(5) After a noticed motion and a finding by the court, in a case in which enforcement actions are being taken, that release or disclosure to the obligor is required by due process of law, the court may order a public entity, which possesses an application, paper, document, or record as described in subdivision (b) to make that item available to the obligor for examination or copying, or to disclose to the obligor the contents of that item. Article 9 (commencing with Section 1040) of Chapter 4 of Division 3 of the Evidence Code shall not be applicable to proceedings under this part.

(6) To the extent not prohibited by federal law or regulation, information indicating the existence or imminent threat of a crime against a minor child, or location of a concealed or abducted child or the location of the concealing or abducting person, may be disclosed to any appropriate law enforcement agency, or to any state or county child protective agency, or may be used in any judicial proceedings to prosecute that crime or to protect the child.

(7) The social security number, most recent address, and the place of employment of the absent parent may be released to an authorized person as defined in Section 653(c) of Title 42 of the

United States Code, only if the authorized person has filed a request for the information, and only if the information has been provided to the California Parent Locator Service by the federal Parent Locator Service pursuant to Section 653 of Title 42 of the United States Code.

(d) (1) "Administration and implementation of the child and spousal support enforcement program," as used in this section, means the carrying out of the state and local plans for establishing, modifying, and enforcing child support obligations, enforcing spousal support orders, and determining paternity pursuant to Part D (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United States Code and this article.

(2) For purposes of this section, "obligor" means any person owing a duty of support.

(e) Any person who willfully, knowingly, and intentionally violates this section is guilty of a misdemeanor.

(f) Nothing in this section shall be construed to compel the disclosure of information relating to a deserting parent who is a recipient of aid under a public assistance program for which federal aid is paid to this state, if that information is required to be kept confidential by the federal law or regulations relating to the program.

SEC. 3. Section 11478.5 of the Welfare and Institutions Code is amended to read:

11478.5. (a) There is in the Department of Justice the California Parent Locator Service and Central Registry which shall collect and disseminate all of the following, with respect to any parent who has deserted or abandoned any child, spouse, or former spouse:

(1) The full and true name of such parent together with any known aliases.

(2) Date and place of birth.

(3) Physical description.

(4) Social security number.

(5) Employment history and earnings.

(6) Military status and Veterans Administration or military service serial number.

(7) Last known address, telephone number, and date thereof.

(8) Driver's license number, driving record, and vehicle registration information.

(9) Criminal, licensing, and applicant records and information.

(10) (A) Any additional location, asset, and income information, including income tax return information obtained pursuant to Section 19285.1 of the Revenue and Taxation Code, and the address, telephone number, and social security information obtained from a public utility that may be of assistance in locating the absent parent, spouse, or former spouse, in establishing a parent and child relationship, in enforcing the child support liability of the absent parent, or enforcing the spousal support liability of the spouse or former spouse to the extent required by the state plan pursuant to

Section 11475.2.

(B) For purposes of this subdivision "income tax return information" means all of the following regarding the taxpayer:

(i) Assets.

(ii) Credits.

(iii) Deductions.

(iv) Exemptions.

(v) Identity.

(vi) Liabilities.

(vii) Nature, source, and amount of income.

(viii) Net worth.

(ix) Payments.

(x) Receipts.

(xi) Address.

(xii) Social security number.

(b) To effectuate the purposes of this section, the California Parent Locator Service and Central Registry shall, to the extent necessary, utilize the federal Parent Locator Service, and may request and shall receive, from all departments, boards, bureaus, or other agencies of the state, or any of its political subdivisions, and those entities shall provide, that assistance and data which will enable the Department of Justice and public agencies to carry out their powers and duties to locate the parents, spouses, and former spouses, and to identify their assets, to establish a parent and child relationship, and to enforce their liability for child or spousal support of their children, and for any other obligations incurred on behalf of their children.

(c) (1) To effectuate the purposes of this section, and notwithstanding any other provision of California law, regulation, or tariff, and to the extent permitted by federal law, the California Parent Locator Service and Central Registry may request and shall receive from public utilities, as defined in Section 216 of the Public Utilities Code, customer service information, including the full name, address, telephone number, date of birth, and social security number of customers of the public utility, to the extent that this information is stored within the computer data base of the public utility.

(2) In order to protect the privacy of utility customers, a request to a public utility for customer service information pursuant to this section shall meet the following requirements:

(A) Be submitted to the public utility in writing, on a transmittal document prepared by the California Parent Locator Service and Central Registry and approved by all of the public utilities.

(B) Have the signature of a representative authorized by the California Parent Locator Service and Central Registry.

(C) Contain at least three of the following data elements regarding the person sought:

(i) First and last name, and middle initial, if known.

(ii) Social security number.

(iii) Driver's license number.
(iv) Birth date.
(v) Last known address.
(vi) Spouse's name.

(D) The California Parent Locator Service and Central Registry shall ensure that each public utility has at all times a current list of the names of persons authorized to request customer service information.

(E) The California Parent Locator Service and Central Registry shall ensure that customer service information supplied by a public utility is applicable to the person who is being sought before releasing the information pursuant to subdivision (d).

(3) The public utility may charge a fee to the California Parent Locator Service and Central Registry for each search performed pursuant to this subdivision to cover the actual costs to the public utility for providing this information.

(4) No public utility, or official or employee thereof, shall be subject to criminal or civil liability for the release of customer service information as authorized by this subdivision.

(d) Notwithstanding Section 14202 of the Penal Code, any records established pursuant to this section shall be disseminated only to the Department of Justice, the central registry of this state and other states as defined by federal law and regulations, district attorneys, probation departments, locator services of other states, the federal Parent Locator Service and official child support enforcement agencies, the county department administering aid to families with dependent children, and courts or local agencies having jurisdiction in support, adoption, dependency, or abandonment proceedings or actions, or reimbursement proceedings for the support of juveniles who are in out-of-home placement for the purposes set out in Section 11478 and this section.

(e) (1) At no time shall any information received by the California Parent Locator Service and Central Registry be disclosed to any person, agency, or other entity, other than those persons, agencies, and entities specified pursuant to Section 11478, this section, or any other provision of law.

(2) This subdivision shall not affect the right to discovery between parties in any action to establish, modify, or enforce child support, spousal support, or family support.

(f) (1) The Department of Justice, in consultation with the State Department of Social Services, shall promulgate rules and regulations to facilitate maximum and efficient use of the California Parent Locator Service and Central Registry.

(2) The Department of Justice, in consultation with the State Department of Social Services and the Public Utilities Commission, shall develop procedures for obtaining the information described in subdivision (c) from public utilities, and for compensating the public utilities for providing that information.

(g) The State Department of Social Services and the Department

of Justice shall implement the provisions of this section regarding public utilities, as defined by Section 216 of the Public Utilities Code, only where there is a reasonable likelihood that the cost of obtaining customer service information from public utilities pursuant to this section would be less than the additional collections obtained through use of that information.

(h) This section shall be construed in a manner consistent with the other provisions of this article.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 944

An act to amend Sections 8516 and 8516.1 of the Business and Professions Code, and to amend Sections 11891, 11893, and 12998 of the Food and Agricultural Code, relating to pest control.

[Approved by Governor October 13, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 8516 of the Business and Professions Code is amended to read:

8516. (a) This section, and Section 8519, apply only to wood destroying pests or organisms, but do not apply to work conducted under a Branch 4 license.

(b) No registered company or licensee shall commence work on a contract, or sign, issue or deliver any documents expressing an opinion or statement relating to the absence or presence of wood destroying pests or organisms until an inspection has been made. The registered company shall retain for three years all field reports from which a verbal or written estimate of or solutions for work are made. A written inspection report conforming to this section and on a form prescribed by the board shall be prepared and delivered to the person requesting the inspection or to the person's designated agent. A copy of each report shall be filed with the board at the time the report is delivered or not later than five working days after the date the inspection is made. The report shall be delivered to the person requesting the inspection, or to the person's designated agent, before

work is commenced. The following shall be set forth in the report:

(1) The date of the inspection and the name of the licensee making the inspection.

(2) The name and address of the person or firm ordering the report.

(3) The name and address of any person who is a party in interest to whom the board is to send certified copies of inspection reports and completion notices as provided in subdivision (h).

(4) The address or location of the property.

(5) A general description of the building or premises inspected.

(6) A foundation diagram or sketch of the structure or structures or portions of the structure or structures inspected, indicating thereon the approximate location of any infested or infected areas evident, and the parts of the structure where conditions which would ordinarily subject those parts to attack by wood destroying pests or organisms exist.

(7) Information regarding the substructure, foundation walls and footings, porches, patios and steps, air vents, abutments, attic spaces, roof framing that includes the eaves, rafters, fascias exposed timbers, exposed sheathing, ceiling joists, and attic walls, or other parts subject to attack by wood destroying pests or organisms. Conditions usually deemed likely to lead to infestation or infection, such as earth contacts, excessive cellulose debris, faulty grade levels, excessive moisture conditions, roof leaks, and insufficient ventilation are to be reported.

(8) Indication or description of any areas that are inaccessible or not inspected, with suggestion for further inspection if practicable. If, after the report has been made in compliance with this section, authority is given later to open inaccessible areas, a supplementary report on conditions in these areas shall be made.

(9) Recommendations for corrective measures.

(10) Information regarding the pesticide or pesticides to be used for their control as set forth in subdivision (a) of Section 8538.

(11) The inspection report shall clearly disclose that if requested by the person ordering the original report, a reinspection of the structure will be performed if an estimate or bid for making repairs was given with the original inspection report, or thereafter.

An estimate or bid for repairs shall be given separately allocating the costs to perform each and every recommendation for corrective measures as specified in subdivision (c) with the original inspection report if the person who ordered the original inspection report so requests, and if the registered company is regularly in the business of performing corrective measures.

If no estimate or bid was given with the original inspection report, or thereafter, then the registered company shall not be required to perform a reinspection.

A reinspection shall be an inspection of those items previously listed on an original report to determine if the recommendations have been completed. Each reinspection shall be reported on an

original inspection report form and shall be labeled "Reinspection" in capital letters by rubber stamp or typewritten. Each reinspection shall also identify the original report by date and stamp numbers.

After four months from an original inspection, all inspections shall be original inspections and not reinspections.

Any reinspection shall be performed for not more than the price of the registered company's original inspection price and shall be completed within 10 working days after a reinspection has been ordered.

(c) At the time a report is ordered, the registered company or licensee shall inform the person or entity ordering the report, that a separated report is available pursuant to this subdivision. If a separated report is requested at the time the inspection report is ordered, the registered company or licensee shall separately identify on the report each recommendation for corrective measures as follows:

(1) The infestation or infection which is evident.

(2) The conditions that are present which are deemed likely to lead to infestation or infection.

If a registered company or licensee fails to inform as required by this subdivision and a dispute arises, or if any other dispute arises as to whether this subdivision has been complied with, a separate report shall be provided within 24 hours of the request but, in no event, later than the next business day, and at no additional cost.

(d) When a corrective condition is identified, either as paragraph (1) or (2) of subdivision (c), and the responsible party, as negotiated between the buyer and the seller, chooses not to correct those conditions, the registered company or licensee shall not be liable for damages resulting from a failure to correct those conditions or subject to any disciplinary action by the board. Nothing in this subdivision, however, shall relieve a registered company or a licensee of any liability resulting from negligence, fraud, dishonest dealing, other violations pursuant to this chapter, or contractual obligations between the registered company or licensee and the responsible parties.

(e) The inspection report form prescribed by the board shall separately identify paragraphs (1) and (2) of subdivision (c). Additionally, the form shall explain paragraphs (1) and (2) of subdivision (c) conditions and the difference between those conditions. In no event, however, shall conditions described pursuant to paragraph (2) of subdivision (c) be characterized as actual "defects" or as actual "active" infestations or infections or in need of correction as a precondition to issuing a certification pursuant to Section 8519.

(f) The report and any contract entered into shall also state specifically when any guarantee for the work is made, and if so, the specific terms of the guarantee and the period of time for which the guarantee shall be in effect.

(g) Control service is defined as the regular reinspection of a

property after a report has been made in compliance with this section and such corrections as have been agreed upon have been completed. Under a control service agreement a registered company shall refer to the original report and contract in a manner as to identify them clearly, and the report shall be assumed to be a true report of conditions as originally issued, except it may be modified after a control service inspection. A registered company is not required to issue a report as outlined in paragraphs (1) to (9), inclusive, of subdivision (b) after each control service inspection. If after control service inspection, no modification of the original report is made in writing, then it will be assumed that conditions are as originally reported. A control service contract shall state specifically the particular wood destroying pests or organisms and the portions of the buildings or structures covered by the contract.

(h) Whenever a report is filed pursuant to subdivision (b), the board shall forthwith send to any person or firm designated under paragraph (3) of that subdivision a certified copy of all inspection reports and completion notices made on the property and filed with the board during the preceding two years, if so requested and upon payment of an appropriate search fee.

(i) All work recommended by a registered company, where an estimate or bid for making repairs was given with the original inspection report, or thereafter, shall be recorded on this report or a separate work agreement and shall specify a price for each recommendation. This information shall be provided to the person requesting the inspection, and shall be retained by the registered company with the inspection report copy for two years.

This section shall become operative on July 1, 1989.

SEC. 2. Section 8516.1 of the Business and Professions Code is amended to read:

8516.1. (a) This section applies only to work conducted under a Branch 4 license.

(b) No Branch 4 registered company or licensee shall commence work on a contract, or sign, issue, or deliver any documents expressing an opinion or statement relating to the absence or presence of wood destroying organisms or nondecay fungi on a wood shake or shingle roof until an inspection has been made. All inspections performed by Branch 4 registered companies or licensees shall be on properties that are not offered for sale, lease, or exchange, and shall be limited to the wood shakes or shingles on wood shake or shingle roofs and may only be performed for purposes of detecting the presence or absence of (1) wood destroying organisms such as decay fungi on the wood shakes or shingles and resulting decay, or (2) nondecay fungi such as mold, mildew, lichen, or moss on the wood shakes or shingles.

(c) All Branch 4 registered companies shall retain for three years all field reports from which a verbal or written estimate of or solutions for work are made. A written inspection report conforming to this section and on a form prescribed by the board shall be

prepared and delivered to the person requesting the inspection or to the person's designated agent. A copy of each report shall be filed with the board at the time the report is delivered or not later than five working days after the date the inspection is made. The report shall be delivered to the person requesting the inspection, or to the person's designated agent, before work is commenced. The following items shall be set forth in the report:

(1) The date of the inspection and the name of the licensee making the inspection.

(2) The name and address of the person or firm ordering the report.

(3) The name and address of any person who is a party in interest to whom the board is to send certified copies of the inspection reports and completion notices as provided in subdivision (e).

(4) The address or location of the property.

(5) A general description of the building inspected.

(6) A diagram or sketch of the roof inspected indicating thereon the type and approximate location of any infection of wood destroying organisms or nondecay fungi.

(7) Information regarding conditions usually deemed likely to lead to infection of wood destroying organisms and nondecay fungi.

(8) Recommendations for corrective measures.

(9) Information regarding the wood preservative to be used for control of the wood destroying organisms and nondecay fungi as set forth in subdivision (a) of Section 8538.

(d) The report and any contract entered into shall also state specifically when any guarantee for the work is made, and if so, the specific terms of the guarantee and the period of time for which the guarantee shall take effect.

(e) Whenever a report is filed pursuant to subdivision (c), the board shall forthwith send to any person or firm designated under paragraph (3) of that subdivision a certified copy of all inspection reports and completion notices made on the property and filed with the board during the preceding two years, if so requested, and, upon payment of an appropriate search fee.

(f) All work recommended by a Branch 4 registered company, where an estimate or bid for making repairs was given with the original inspection report, or thereafter, shall be recorded on that report or a separate work agreement and shall specify a price for each recommendation. This information shall be provided to the person requesting the inspection, and shall be retained by the registered company with the inspection report copy for two years.

SEC. 3. Section 11891 of the Food and Agricultural Code is amended to read:

11891. Every person who violates this division, or any regulation issued pursuant to this division, is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000), or by imprisonment of not less than 10 days nor more than six months, or

by both that fine and imprisonment. Each violation constitutes a separate offense.

SEC. 4. Section 11893 of the Food and Agricultural Code is amended to read:

11893. Any person who violates this division, or any regulation issued pursuant to this division, is liable civilly in an amount not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000) for each violation. Any money recovered under this section shall be paid into the Department of Pesticide Regulation Fund for use by the department in administering and enforcing this division pursuant to Section 11513, and in administering Division 7 (commencing with Section 12501).

SEC. 5. Section 12998 of the Food and Agricultural Code is amended to read:

12998. Any person who violates this division relating to pesticides, or any regulation issued pursuant to a provision of this division relating to pesticides, is liable civilly in an amount not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000) for each violation. Any person who commits a second or subsequent violation that is the same as a prior violation or similar to a prior violation or whose intentional violation resulted or reasonably could have resulted in the creation of a hazard to human health or the environment or in the disruption of the market of the crop or commodity involved, is liable civilly in an amount not less than five thousand dollars ($5,000) nor more than twenty-five thousand dollars ($25,000) for each violation. Any money recovered under this section shall be paid into the Department of Pesticide Regulation Fund for use by the department in administering this division, and Division 6 (commencing with Section 11401).

CHAPTER 945

An act to amend Sections 8574.4 and 8670.21 of the Government Code, relating to oil spills.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 8574.4 of the Government Code is amended to read:

8574.4. State agencies designated to implement the contingency plan shall account for all state expenditures made under the plan with respect to each oil spill. Expenditures accounted for under this section from an oil spill in marine waters shall be paid from the Oil Spill Response Trust Fund created pursuant to Section 8670.46. All other expenditures accounted for under this section shall be paid

from the State Water Pollution Cleanup and Abatement Account in the State Water Quality Control Fund provided for in Article 3 (commencing with Section 13440) of Chapter 6 of Division 7 of the Water Code. If the party responsible for the spill is identified, that party shall be liable for the expenditures accounted for under this section, in addition to any other liability which may be provided for by law, in an action brought by the Attorney General. The proceeds from any such action for a spill in marine waters shall be paid into the Oil Spill Response Trust Fund.

SEC. 2. Section 8670.21 of the Government Code is amended to read:

8670.21. (a) The administrator shall attempt to negotiate an agreement with the Coast Guard by December 31, 1991, for a vessel traffic service (VTS) system to protect the harbors of the state. The administrator may include in the agreement provisions for vessel traffic monitoring and communications systems for areas of the coast outside of harbors or negotiate a separate agreement. Any such separate agreement shall be negotiated by December 31, 1993. The purpose of the vessel traffic service and the vessel traffic monitoring and communications systems shall be to aid navigation by providing satellite tracking, radar, or other information regarding ship locations and traffic to prevent collisions and groundings.

(b) If the administrator cannot negotiate an agreement on VTS systems pursuant to subdivision (a) by December 31, 1991, the administrator shall, in consultation with the Coast Guard, develop a plan for implementing vessel traffic service systems pursuant to subdivision (a) for the Ports of Los Angeles and Long Beach, the harbors of San Francisco, San Pablo and Suisun Bays, and the Santa Barbara Channel, and any other areas where establishing a vessel traffic service system or vessel monitoring and communications system is recommended by the Coast Guard. The plan shall provide for the regions described in this subdivision, and any other system and regions recommended by the Coast Guard, or recommended by the administrator and approved by the Coast Guard. The plan shall be completed by December 31, 1992. Only systems which will be operated by the Coast Guard, or have direct communication with a Coast Guard officer who has Captain of the Port enforcement authority, shall be included in the plan. The system shall be installed and in operation by December 31, 1993. The plan shall be amended to reflect changes in Coast Guard recommendations, operations, and changes in the agreements specified in subdivision (a). If the administrator cannot comply with this deadline, he or she shall report to the Legislature on the reasons. The plan shall, to the extent allowable given federal requirements, provide for the best achievable protection.

(c) The administrator shall attempt to provide funding for a VTS and vessel monitoring and communications system through voluntary funding by the maritime industry. If agreement on voluntary funding has not been reached by July 1, 1992, the

administrator shall establish a revenue system that reflects the commercial maritime activity of each of the respective harbors or areas for which there is a VTS or vessel monitoring and communications system. Using this revenue system, the administrator shall fund the VTS system and vessel monitoring and communications system. The moneys collected pursuant to this subdivision shall be deposited in the Vessel Safety Account, which is hereby created in the Oil Spill Prevention and Administration Fund. Moneys in the Vessel Safety Account are continuously appropriated solely to carry out the purposes of this section. Other than the fees imposed by this subdivision, no funds from the Oil Spill Prevention and Administration Fund may be used to pay for VTS or vessel traffic monitoring and communication systems. The administrator shall adopt regulations to implement this subdivision. The administrator may adopt regulations prohibiting barges and tankers from accepting or unloading oil at marine terminals if a barge or tanker is not in compliance with required vessel traffic service and vessel traffic monitoring and communications system equipment.

(d) (1) The Marine Exchange of Los Angeles and Long Beach Harbors may operate a VTS system if it is approved by the Coast Guard and certified by the administrator as meeting the requirements of this chapter. The marine exchange shall cooperate fully with the administrator in the development and implementation of the VTS system required by this section. Upon certification by the administrator that, pursuant to this section, the Coast Guard has commenced operation of a VTS system for the Ports of Los Angeles and Long Beach, the authorization for the marine exchange to operate a VTS system shall terminate.

(2) The Port of Los Angeles and the Port of Long Beach may impose fees upon all covered vessels for the funding of a VTS system operated by the marine exchange.

(3) A covered vessel shall not assert any claim against the marine exchange or any officer, director, employee, or representative of the marine exchange for any damage, loss, or expense, including any rights of indemnity or other rights of any kind, sustained by the covered vessel or its owners, agents, charterers, operators, crew, or third parties arising out of, or connected with, directly or indirectly, the marine exchange's operation of the vessel traffic service, even though resulting in whole or in part from negligent acts or omissions of the marine exchange or any officer, director, employee, or representative of the marine exchange.

(4) Each covered vessel shall defend, indemnify, and hold harmless the marine exchange and its officers, directors, employees, and representatives from any and all claims, suits, or actions of any nature by whomsoever asserted, even though resulting or alleged to have resulted from negligent acts or omissions of the marine exchange or an officer, director, employee, or representative of the marine exchange.

(5) Nothing in this subdivision shall affect liability or rights which

may arise by reason of the gross negligence or intentional or willful misconduct of the marine exchange or an officer, director, employee, or representative of the marine exchange in the operation of the vessel traffic service.

(6) The marine exchange and its officers and directors are subject to Section 5047.5 of the Corporations Code to the extent that the marine exchange meets the criteria specified in that section.

(7) Nothing in this section shall be deemed to include the marine exchange or its officers, directors, employees, or representatives within the definition of "responsible party" pursuant to subdivision (n) of Section 8670.3 for purposes of this chapter.

(8) On or before July 31, 1993, and on or before July 31 of each odd-numbered year thereafter, the marine exchange shall submit a report containing a complete description of the VTS system operated by the marine exchange to the administrator appointed pursuant to Section 8670.4. Upon receiving this report, the administrator shall determine, after a public hearing, whether the elements and operation of the VTS system are consistent with the Harbor Safety Plan for the Ports of Los Angeles and Long Beach developed pursuant to Section 8670.23 and the standards for the statewide vessel traffic service systems plan developed pursuant to subdivision (b). If the administrator determines that the VTS system is inconsistent with the Harbor Safety Plan for the Ports of Los Angeles and Long Beach developed pursuant to Section 8670.23 or with the statewide vessel traffic service systems plan developed pursuant to subdivision (b), the administrator shall issue an order to the marine exchange specifying modifications to the VTS system to eliminate the inconsistencies. If the marine exchange has not complied with an order within six months of issuance, the administrator may, in addition to or in lieu of other enforcement actions authorized by this chapter, and after a public hearing, administratively revoke the authorization contained in this section for the marine exchange to operate a VTS system. If authorization for the marine exchange to operate a VTS system is revoked, the administrator shall take any action necessary to expeditiously establish a VTS system for the Ports of Los Angeles and Long Beach. The action may include the assessment of fees on vessels, port users, and ports, and needed expenditures, as provided in subdivision (c).

(e) All other vessel traffic service and vessel traffic monitoring and communications systems deemed necessary by the administrator, but not approved by the Coast Guard, shall not be included in the plan until receiving specific approval by the Legislature.

(f) For the purposes of this section, "vessels" means vessels as defined in Section 21 of the Harbors and Navigation Code.

(g) It is the intent of the Legislature that VTS systems and vessel traffic monitoring and communications systems be completed and operated by the Coast Guard, except that in the case of Los Angeles and Long Beach Harbors, a VTS system may be operated by the

Marine Exchange of Los Angeles and Long Beach Harbors pursuant to subdivision (d).

CHAPTER 946

An act to amend Section 12962 of, and to amend and repeal Section 11580.10 of, the Insurance Code, and to amend Section 1808 of, to add Sections 4750.2 and 4750.4 to, to add and repeal Sections 16028, 16028.1, 16030, 16031, 16033, and 16034 of, and to repeal and add Sections 16072 and 16076 of, the Vehicle Code, relating to insurance, and making an appropriation therefor.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 3 and Sections 6 to 12, inclusive, of this act shall be known and may be cited as the Robbins-McAlister Financial Responsibility Act.

SEC. 2. Section 12962 of the Insurance Code is amended to read:

12962. The commissioner shall make an annual report to the Legislature and to the Governor on or before October 1. The report shall include:

(a) An analysis of the information required by Sections 674.5, 1857.7, 1857.9, 1864, 11555.2, and 12963, including, but not limited to, all of the following:

(1) An aggregate and an average for all insurers for each item of information required by these sections.

(2) The number of insurers reporting policies written for each class during the calendar year.

(3) For each class, the number of insurers reporting a combined loss ratio of 100 percent or more, and the number reporting a combined loss ratio of under 100 percent.

(4) An analysis of adjustments made to loss reserves for prior years.

(5) The change in any item required to be included by paragraphs (1) to (4), inclusive, from the immediately prior year.

(b) An analysis of the activities of the Department of Insurance in implementing the provisions of Proposition 103 on the November 8, 1988, General Election Ballot, as set forth in Article 10 (commencing with Section 1861.01) of Chapter 9 of Part 2 of Division 1.

(c) Recommendations and proposals, including suggested legislation, to protect consumers from arbitrary insurance rates and practices, to encourage a competitive insurance marketplace, to provide for an accountable Insurance Commissioner, and to ensure that insurance is fair, available, and affordable for all Californians.

(d) An analysis on the results of the program to reduce the number of uninsured motorists and the relationship to affordable private passenger vehicle liability insurance rates pursuant to Sections 4750.2 and 4750.4 of the Vehicle Code.

(e) The requirements of this section shall be satisfied if the analysis required by this section is included in the annual report to the Governor required by Section 12960, and a copy of that report is provided to the Legislature.

SEC. 3. Section 11580.10 of the Insurance Code is amended to read:

11580.10. Any liability insurer issuing or renewing an automobile liability policy or a motor vehicle liability policy within the meaning of subdivision (a) of Section 16054 of the Vehicle Code shall provide written notice to the named insured of the policy identification number that may be used for verifying financial responsibility for purposes of Section 16028 of the Vehicle Code. This notice may be provided in a written binder, if any, or in the policy documents provided upon issuance or renewal of the policy. The insurer shall provide at least two copies of the notice to the insured and shall, upon request and payment of the reasonable cost thereof, provide additional copies.

This section shall remain in effect only until January 1, 1995, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1995, deletes or extends that date.

SEC. 3.5. Section 1808 of the Vehicle Code is amended to read:

1808. Notwithstanding Sections 16005 and 20012, and except as provided in Sections 1808.4, 1808.5, 4750.2, and 4750.4, all records of the department relating to the registration of vehicles, other information contained on an application for a driver's license, abstracts of convictions, and abstracts of accident reports required to be sent to the department in Sacramento, except for abstracts of accidents where, in the opinion of a reporting officer, another individual was at fault, shall be open to public inspection during office hours. All abstracts of accident reports shall be available to law enforcement agencies and courts of competent jurisdiction.

SEC. 4. Section 4750.2 is added to the Vehicle Code, to read:

4750.2. (a) The department shall conduct a study of methods for verifying financial responsibility with respect to vehicles being registered or reregistered. The insurance industry, the insurance trade industry, and consumer groups shall be invited to participate in the study and to cooperate with the department in providing information necessary to the conduct of the study. Any information provided by an insurer for purposes of the study shall, except as provided in Section 4750.4, be kept confidential by the department.

(b) The department shall prepare and transmit to the Legislature, on or before April 1, 1992, an interim report which shall include, but not be limited to, all of the following:

(1) Alternatives for verifying financial responsibility, together with the cost of each alternative.

(2) Methods used by other states for similar verification, and the results of those methods.

(3) The recommended method of verification.

(4) An implementation plan to permit evaluation of the recommended method.

(c) The department shall prepare and transmit to the Legislature, on or before December 1, 1992, a final report containing the results of the evaluation and recommendations for implementation of a verification program.

SEC. 5. Section 4750.4 is added to the Vehicle Code, to read:

4750.4. Information provided by an insurer to the department pursuant to Section 11580.10 of the Insurance Code and Section 4750.2 of this code shall be made available only to law enforcement agencies for law enforcement purposes.

SEC. 6. Section 16028 is added to the Vehicle Code, to read:

16028. (a) (1) Every person who drives a motor vehicle required to be registered in this state upon a highway, or who drives a moped upon the highway, shall, when requested by a peace officer pursuant to subdivision (c) or (d), provide evidence of financial responsibility for the vehicle.

(2) Every person who drives a motor vehicle subject to registration upon private property shall, when requested by a peace officer pursuant to subdivision (c) or (d), provide evidence of financial responsibility for the vehicle.

Except as otherwise provided in this subdivision and subdivision (e), any person who violates this subdivision is guilty of an infraction and shall be punished for each offense by a fine of ninety-five dollars ($95) and an additional penalty assessment of twenty-five dollars ($25). If (A) the citation is issued pursuant to subdivision (c) on a notice to appear for violation of Section 23152, and (B) the driver is convicted of violating Section 23152, then the penalty upon conviction for violation of paragraph (1) or (2) of this subdivision is a fine of two hundred dollars ($200) and an additional penalty assessment of sixty dollars ($60). Each defendant shall be fined and assessed a penalty assessment in the amount specified in this section, upon conviction, unless the court determines that in the interests of justice the fine and the penalty assessment should be reduced. Any reduction of the fine and penalty assessment shall be in the same proportion and the court shall state the reasons for reducing the fine and assessment on the record.

In lieu of the fine and penalty assessment otherwise assessable under this subdivision, the court may permit the defendant to perform community service designated by the court.

(b) (1) For purposes of this section, "evidence of financial responsibility" shall be in writing and means any of the following:

(A) The name of the insurance or surety company which issued the automobile liability policy, motor vehicle liability policy, or bond meeting the requirements of Section 16056, in effect for the vehicle, and the number of the insurance policy or surety bond.

(B) If the owner is a self-insurer as provided in Section 16052 or a depositor as provided in Section 16054.2, the certificate or deposit number issued by the department.

(C) An insurance covering note, as specified in Section 382 of the Insurance Code.

(D) A showing that the vehicle is owned or leased by, or under the direction of, the United States or any public entity, as defined in Section 811.2 of the Government Code.

(2) For purposes of this section, "evidence of financial responsibility" also includes the identifying symbol issued to a highway carrier by the Public Utilities Commission pursuant to Section 3543 of the Public Utilities Code and displayed on the motor vehicle.

(3) For purposes of this section, "evidence of financial responsibility in writing" may be satisfied by writing the name of the insurance company or surety company and the policy number or surety bond number on the motor vehicle registration card issued by the Department of Motor Vehicles.

(c) Whenever a notice to appear is issued for any alleged violation of this code, except a violation specified in Chapter 9 (commencing with Section 22500) of Division 11 or any local ordinance adopted pursuant thereto, the cited driver shall furnish written evidence of financial responsibility, as defined by subdivision (b), upon request of the peace officer issuing the citation. The peace officer shall request and write the driver's evidence of financial responsibility on the notice to appear, except where the peace officer is unable to write the driver's evidence of financial responsibility on the notice to appear due to an emergency that requires his or her presence elsewhere. If the cited driver fails to provide evidence of financial responsibility at the time the notice to appear is issued, the peace officer may issue the driver a notice to appear for violation of subdivision (a). The notice to appear for violation of subdivision (a) shall be written on the same citation form as the original violation.

(d) Whenever a peace officer is summoned to the scene of an accident which is reportable pursuant to Section 16000, the driver of any motor vehicle which is in any manner involved in the accident, shall furnish written evidence of financial responsibility as defined by subdivision (b), upon the request of the peace officer making the report. If the driver fails to provide evidence of financial responsibility when requested, the peace officer may issue the driver a notice to appear for violation of subdivision (a).

(e) A person cited in a notice to appear for violation of subdivision (a) may personally appear before the clerk of the court, as designated in the notice to appear, and provide written evidence of financial responsibility in a form consistent with subdivision (b) showing that the driver was in compliance with Section 16020 at the time the notice to appear for violating subdivision (a) was issued. In lieu of a personal appearance, the person may submit written evidence of financial responsibility by mail to the court. Upon receipt

by the clerk of written evidence of financial responsibility in a form consistent with subdivision (b), further proceedings on the notice to appear for the violation of subdivision (a) of Section 16028 shall be dismissed.

(f) If a driver cited for a violation of subdivision (a) is, at the time of issuance of the notice to appear, driving a motor vehicle owned, operated, or leased by the employer of the driver and driven with the permission of the employer, this section and Sections 16031 and 16032 apply to the employer rather than the driver. In that case, the notice to appear shall be issued to the employer, rather than the driver, and the driver may sign the notice to appear on behalf of the employer and shall notify the employer of the citation within five days after the issuance thereof.

(g) Penalty assessments collected pursuant to subdivision (a) shall be deposited in the county's Courthouse Temporary Construction Fund established pursuant to Section 76001, 76002, 76003, 76004, 76005, or 76006 of the Government Code.

(h) Any penalty assessment imposed pursuant to any other provision of law shall not be imposed on the additional penalty assessment provided in subdivision (a).

(i) This section shall remain in effect only until January 1, 1995, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1995, deletes or extends that date.

SEC. 7. Section 16028.1 is added to the Vehicle Code, to read:

16028.1. (a) Whenever there is probable cause to arrest a driver for a violation of this code, except a violation specified in Chapter 9 (commencing with Section 22500) of Division 11 or any local ordinance adopted pursuant thereto, the peace officer shall request the driver to furnish written evidence of financial responsibility, as defined by subdivision (b) of Section 16028. The driver shall furnish the written evidence of financial responsibility upon request of the peace officer. If the driver fails to provide evidence of financial responsibility when requested, the peace officer may issue the driver a notice to appear for violation of subdivision (a) of Section 16028.

(b) This section shall remain in effect only until January 1, 1995, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1995, deletes or extends that date.

SEC. 8. Section 16030 is added to the Vehicle Code, to read:

16030. (a) Each municipal and justice court shall each month select a current random sample of not to exceed 1 percent of notices to appear upon which evidence of financial responsibility has been written pursuant to subdivision (b) or (e) of Section 16028. Copies of the citations selected shall be transmitted to the department for verification. When an insurance or surety company or policy or bond number has been used as evidence of financial responsibility, the department shall verify the existence of the indicated insurance or surety coverage with the insurer or surety by negative verification.

For purposes of this subdivision, "negative verification" means that an insurer or surety shall be required to notify the department,

upon inquiry by the department, only if the insurer or surety determines that no insurance policy or bond issued by it was in force at the time for which the department is inquiring.

(b) There shall be no liability on the part of, and no cause of action of any nature shall arise against, any insurer or surety, its authorized representatives, its agents, its employees, or any person furnishing or failing to furnish or incorrectly furnishing, verifying, or reporting the existence or nonexistence of insurance or surety coverage to the department in response to the negative verification process.

(c) If the department determines that a cited driver provided erroneous evidence of financial responsibility pursuant to subdivision (c) of Section 16028, the department shall mail to any such driver a notice of intent to suspend the driver's license of that driver. Fifteen days after mailing the notice, the department shall immediately suspend the driver's license, unless the driver has, prior to that date, established proof of financial responsibility, as specified in Section 16021, with the department. The suspension shall remain in effect until the person establishes financial responsibility with the department or until three years from the commencement of the suspension, whichever occurs first. During this three-year period, the suspension shall be reimposed for failure to maintain proof of financial responsibility in the same manner as specified in Article 3 (commencing with Section 16050).

This subdivision does not apply to a driver who is driving a motor vehicle owned, operated, or leased by the employer of the driver and driven with the permission of the employer.

(d) This section shall remain in effect only until January 1, 1995, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1995, deletes or extends that date.

SEC. 9. Section 16031 is added to the Vehicle Code, to read:

16031. (a) The notices to the department authorized by subdivisions (a) and (b) of Section 40509 shall be given in all instances of failure to appear or pay a fine for violation of subdivision (a) of Section 16028. Notwithstanding Section 13365, the department, except as provided in subdivision (b), shall suspend the driving privilege of any person for whom this notification is received, as provided in Section 13365, regardless of whether there are prior notifications of violations of Section 40509 in the person's driving record.

(b) Where (1) a driver's employer is made responsible for a violation of subdivision (a) of Section 16028 pursuant to subdivision (e) of Section 16028 and (2) notice is provided to the department pursuant to subdivision (a) or (b) of Section 40509 for failure of the employer to appear or pay a fine on account of the violation, the department shall not thereafter renew the registration of the vehicle involved in the offense, if the employer is the owner of the vehicle, until the employer establishes and maintains proof of financial responsibility for the vehicle in the manner prescribed by Section 16034.

(c) This section shall remain in effect only until January 1, 1995, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1995, deletes or extends that date.

SEC. 10. Section 16033 is added to the Vehicle Code, to read:

16033. (a) No public entity or employee is liable for any loss, detriment, or injury resulting directly or indirectly from failing to request evidence of financial responsibility or inaccurately recording that evidence under Section 16028, or as a result of the driver producing false or inaccurate financial responsibility information.

(b) This section shall remain in effect only until January 1, 1995, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1995, deletes or extends that date.

SEC. 11. Section 16034 is added to the Vehicle Code, to read:

16034. (a) Every person convicted of a violation of subdivision (a) of Section 16028 shall, within 60 days of the conviction, file with the department and thereafter maintain for a period of three years, proof of financial responsibility in the same manner as specified in Article 3 (commencing with Section 16050). If proof of financial responsibility is established by filing evidence that the person obtained an automobile or motor vehicle liability policy or bond, and coverage under the policy or bond terminates, the insurer or surety shall inform the department of the date of termination.

(b) The department shall obtain the record of persons convicted of violations of subdivision (a) of Section 16028 from the courts as provided in Section 1803.

(c) For purposes of this section, a conviction shall be deemed to have occurred if the criteria of Section 13103 or 13105 are satisfied.

(d) Except as provided in subdivision (e) of Section 16028, the department shall suspend, effective 30 days from mailing a notification of intent to suspend, the driving privileges of any person who fails to file or maintain proof of financial responsibility as required by this section. The suspension shall remain in effect so long as there is a lack of compliance with the requirements of this section.

(e) This section shall remain in effect only until January 1, 1995, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1995, deletes or extends that date.

SEC. 12. Section 16072 of the Vehicle Code is repealed.

SEC. 13. Section 16072 is added to the Vehicle Code, to read:

16072. (a) The suspension of the driving privilege of a person as provided in Section 16070 shall not be terminated until: (1) one year has elapsed from the date of actual commencement of the suspension, or the person has paid a penalty fee to the department in the amount of two hundred fifty dollars ($250), and (2) the person files proof of financial responsibility as provided in Chapter 3 (commencing with Section 16430). The suspension shall be reinstated if the person fails to maintain proof of financial responsibility for three years from the date of actual commencement of the suspension.

(b) If a suspension has been imposed under Section 16070 and one

year has elapsed from the date of suspension actually commenced, that suspension shall be terminated if the driving privilege is suspended under Section 16370 or 16381 as the result of a judgment arising out of the accident for which proof of financial responsibility was required to be established. The department may reimpose the suspension of the driving privilege of a person under Section 16070 if the suspension under Section 16370 or 16381 is later set aside for a reason other than that the person has satisfied the judgment in full or to the extent provided in Chapter 2 (commencing with Section 16250) and has given proof of financial responsibility as provided in Chapter 3 (commencing with Section 16430).

(c) Notwithstanding Chapter 2 (commencing with Section 42200) of Division 18, all revenues derived from the penalty fees provided in subdivision (a) shall, after deduction by the department of the costs incurred by the department in administering this section, be deposited in the Financial Responsibility Penalty Account in the General Fund. The balance in this fund each July 1, which is not subject to appropriation as provided in Section 12980 of the Insurance Code, shall revert to the General Fund.

SEC. 14. Section 16076 of the Vehicle Code is repealed.

SEC. 15. Section 16076 is added to the Vehicle Code, to read:

16076. (a) The department shall notify every person whose driving privilege is suspended, pursuant to Section 16070, of that person's right to apply for termination of the suspension under Section 16072.

(b) For purposes of subdivision (a), the department shall prepare and publish a printed summary. The printed summary may contain, but is not limited to, the following wording:

"If your driving privilege is suspended due to involvement in an accident while you were uninsured, you may apply for termination of the suspension at any office of the Department of Motor Vehicles, accompanied with proof of financial responsibility, payment of a penalty fee of two hundred fifty dollars ($250), and unless already paid, payment of a reissuance fee of fifteen dollars ($15). The suspension will not be terminated if any other suspension or revocation action has been taken against your driving privilege."

SEC. 16. Section 3 and Sections 6 to 15, inclusive, of this act shall become operative only if SB 941, AB 1375, AB 2041, or any combination of those bills, is also enacted and becomes effective on or before January 1, 1992.

SEC. 17. The sum of one million fifty-six thousand dollars ($1,056,000) is hereby appropriated from the Motor Vehicle Account in the State Transportation Fund as a loan to the Department of Motor Vehicles for purposes of carrying out Sections 4 to 16, inclusive, of this act. The moneys appropriated by this section are a loan from the Motor Vehicle Account in the State Transportation Fund. The Department of Motor Vehicles shall, from funds in the Financial Responsibility Penalty Account in the General Fund, reimburse the Motor Vehicle Account in the State Transportation

Fund for this loan together with interest paid at the same rate as interest earned on moneys in the Pooled Money Investment Account.

SEC. 18. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 947

An act to amend Section 10249.2 of, and to add and repeal Article 9 (commencing with Section 10260) to Chapter 3 of Part 1 of Division 4 of, the Business and Professions Code, relating to real estate.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 10249.2 of the Business and Professions Code is amended to read:

10249.2. The sale or lease, or the offering for sale or lease, of lots or parcels in a subdivision situated outside of this state shall be governed by Article 6 (commencing with Section 10237) and by Chapter 1 (commencing with Section 11000) of Part 2, insofar as applicable, except that Section 10237.6 shall not be applicable to an accessible urban subdivision, as defined in Section 10249.11, or a qualified resort vacation club, as defined in Section 10260.

SEC. 2. Article 9 (commencing with Section 10260) is added to Chapter 3 of Part 1 of Division 4 of the Business and Professions Code, to read:

Article 9. Qualified Resort Vacation Clubs

10260. A "qualified resort vacation club" shall be deemed to be a time-share project as defined in Section 11003.5 irrespective of how interests in the club may be qualified for offering in another state or jurisdiction. No permit may be issued under this article for a qualified resort vacation club unless the commissioner determines that the project conforms to each of the following:

(a) A project for which real property or other interests are sold or offered for sale, each incorporating access (in accordance with the

purchaser's ownership interest) to the reservation of use and occupancy of any accommodations at any resort property which is part of the project, irrespective of the one, or any one, of those distinct resort properties in which the individual purchaser or owner holds or may hold an ownership interest; and in which, by acquiring the interest the use of that interest is committed to the reservation and management system cited in subdivision (d).

That reservation access shall be without priority among owners at the resort property at which that applicant for a reservation holds an ownership interest, or at any other resort property that is part of the project after a limited period of time which may be reserved exclusively for owners who hold ownership interests at that specific resort property, and then uniformly applied among all owners irrespective of the resort properties in which they hold an ownership interest.

The interest shall be (1) an undivided real property interest in a dwelling unit or structure containing more than one dwelling unit, as a tenant in common with other purchasers of undivided interests which have an attached nonseverable membership interest pursuant to subdivision (g) of Section 11004.5 providing rights of access to each and every resort property which is part of the project, or (2) as determined by the commissioner, a similar interest pursuant to the law of the jurisdiction in which the resort property outside the United States is located.

Nothing contained herein shall preclude an interest in a resort property in a qualified resort vacation club from being classified as interests in real property or other classification as may be permitted under applicable law.

(b) A project in which there are included dwelling units located outside of this state, and in which there may also be included dwelling units located inside of this state.

(c) A project in which a system exists for allocation of all costs and expenses (1) for the operation and management of a reservation system for more than one resort property, and including each resort property which is part of the project, pursuant to which all owners may reserve use and occupancy of accommodations at any resort property which is part of the qualified resort vacation club, and (2) for the operation, maintenance, repair, and management of the individual resort properties.

(d) A project which includes a sufficient number of dwelling units to accommodate the aggregate rights of use or occupancy of all owners, and provides a system for the reservation and management of those accommodations, which system, in the opinion of the commissioner, provides adequately for the reservation and management of more than one resort property and including each resort property which is part of the project.

(e) The offering will be accompanied by a full and detailed disclosure, on a form included within the permit, that the purchase of an interest should be based on the value of the interest as a

vacation or leisure time experience and not as an appreciating investment or an expectation of resale.

(f) A project in which, on and after the closing of the first sale subject to this article of an interest in that resort property, there is no blanket encumbrance affecting land on which any resort property which is part of the project is situated.

(g) A project for which the initial permit application shall include not less than 175 dwelling units, and not less than 8,750 time-share use periods. For the purposes of this section, a time-share use period shall be considered to be the minimum time segment measured in days for which units in that resort property may be reserved for use, but not less than seven days. Nothing in this section shall prohibit a reservation system from being implemented in any qualified resort vacation club that permits actual use and use periods shorter than seven days.

(h) A project in which there is more than one resort property, each situated at a distinct geographic location, providing time-share use periods of residential accommodations for member use, and common areas at each resort property which include an amenity package of recreational or health facilities specified in the offering, except that an initial application may be approved where only one such resort property exists or is being developed if the commissioner determines that the applicant has demonstrated an intent through the planning process, or other organizational preparation, to develop one or more additional resort property sites.

(i) A project in which interests in each resort property which is part of the offering shall be offered for sale, and initially managed by the applicant for a permit under this article or a holding company of the applicant or a subsidiary of either the applicant or its holding company.

If upon renewal of any permit under this article, the commissioner determines that any resort property is not managed by the applicant or a subsidiary of the applicant or its holding company, that factor shall be considered in determining whether the application for renewal conforms to subdivision (h) of Section 11018 or Section 11018.5.

(j) As used in this section, the following terms have the following meanings:

(1) "Individual resort property" means the time-share use periods in dwelling units and common areas situated at distinct geographic locations.

(2) "Project" means all of the individual resort properties comprising a qualified resort vacation club.

10261. No person acting as a principal or agent shall in this state sell or lease, or offer for sale or lease, interests in a qualified resort vacation club, except as provided in this article, in Article 6 (commencing with Section 10237), Article 8 (commencing with Section 10249) and Chapter 1 (commencing with Section 11000) of Part 2, insofar as is applicable.

10262. Section 10249.7 shall apply to a qualified resort vacation club project insofar as that statute pertains to a subdivision described in Section 11004.5.

10263. (a) The commissioner may adopt regulations reasonably necessary to enforce this article, which may incorporate by reference the regulations for time-share projects.

(b) In consideration of the different characteristics of qualified resort vacation club projects, the regulations to be adopted by the commissioner under this article may vary from some of the requirements of those regulations referred to in subdivision (a), where in the judgment of the commissioner the variations will continue to give rights, remedies, benefits, and protections to owners of interests in qualified resort vacation clubs.

10264. On or before January 1, 1995, the department shall submit a preliminary report to the Legislature and on or before January 1, 1996, the department shall submit a final report to the Legislature on the effectiveness of this article in the regulation of the marketing of qualified resort vacation clubs including, but not limited to: the number of permit applications received; the number of permit applications issued; the size, characteristics, and scope of the projects; information on the regulatory or enforcement problems experienced; and, in the case of the final report, recommendations on whether or not to continue the program and, if the recommendation is to continue the program, any proposed changes to the law, regulations, or related program requirements.

10265. (a) This article shall remain in effect only until January 1, 1997, and as of that date is repealed unless a later enacted statute, which is enacted before January 1, 1997, deletes or extends that date.

(b) The repeal of this article shall not affect or prevent the commissioner from issuing, amending, or renewing any permit pursuant to the requirements of this article as this article reads on December 31, 1996, for the continued operation of a qualified resort vacation club for which an original permit was issued prior to January 1, 1997.

(c) The repeal of this article shall not affect or prevent the commissioner from issuing, renewing, or amending any permit pursuant to the requirements of this article as this article reads on December 31, 1996, for a qualified resort vacation club for which an original permit was issued prior to January 1, 1997, for the purpose of continuing the phased development of the project, which allows the commissioner to approve the addition of units subject to this part at existing resort properties which are part of the project, or at new resort properties which become part of the project.

CHAPTER 948

An act to amend Section 1347 of the Penal Code, relating to children.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 1347 of the Penal Code is amended to read:

1347. (a) It is the intent of the Legislature in enacting this section to provide the court with discretion to employ unusual court procedures to protect the rights of a child witness, the rights of the defendant, and the integrity of the judicial process. In exercising its discretion, the court necessarily will be required to balance the rights of the defendant against the need to protect a child witness and to preserve the integrity of the court's truthfinding function. This discretion is intended to be used selectively when the facts and circumstances in the individual case present compelling evidence of the need to use these unusual procedures.

(b) Notwithstanding any other law, the court in any criminal proceeding, upon written notice of the prosecutor made at least three days prior to the date of the preliminary hearing or trial date on which the testimony of the minor is scheduled, or during the course of the proceeding on the court's own motion, may order that the testimony of a minor 10 years of age or younger at the time of the motion be taken by contemporaneous examination and cross-examination in another place and out of the presence of the judge, jury, defendant, and attorneys, and communicated to the courtroom by means of closed-circuit television, if the court makes all of the following findings:

(1) The minor's testimony will involve a recitation of the facts of an alleged sexual offense committed on or with the minor.

(2) The impact on the minor of one or more of the factors enumerated in subparagraphs (A) to (D), inclusive, is shown by clear and convincing evidence to be so substantial as to make the minor unavailable as a witness unless closed-circuit television is used.

(A) Threats of serious bodily injury to be inflicted on the minor or a family member, of incarceration or deportation of the minor or a family member, or of removal of the minor from the family or dissolution of the family, in order to prevent or dissuade the minor from attending or giving testimony at any trial or court proceeding or to prevent the minor from reporting the alleged sexual offense or from assisting in criminal prosecution.

(B) Use of a firearm or any other deadly weapon during the commission of the crime.

(C) Infliction of great bodily injury upon the victim during the commission of the crime.

(D) Conduct on the part of the defendant or defense counsel during the hearing or trial which causes the minor to be unable to continue his or her testimony.

In making the determination required by this section, the court shall consider the age of the minor, the relationship between the minor and the defendant or defendants, any handicap or disability of the minor, and the nature of the acts charged. The minor's refusal to testify shall not alone constitute sufficient evidence that the special procedure described in this section is necessary in order to obtain the minor's testimony.

(3) The equipment available for use of closed-circuit television would accurately communicate the image and demeanor of the minor to the judge, jury, defendant or defendants, and attorneys.

(c) If the court orders the use of closed-circuit television, two-way closed-circuit television shall be used, except that if the impact on the minor of one or more of the factors enumerated in subparagraphs (A) to (D), inclusive, of paragraph (2) of subdivision (b), is shown by clear and convincing evidence to be so substantial as to make the minor unavailable as a witness even if two-way closed-circuit television is used, one-way closed-circuit television may be used. The prosecution shall give the defendant at least 30 days written notice of the prosecution's intent to seek the use of one-way closed-circuit television, unless good cause is shown to the court why this 30-day notice requirement should not apply.

(d) (1) The hearing on a motion brought pursuant to this section shall be conducted out of the presence of the jury.

(2) Notwithstanding Section 804 of the Evidence Code or any other law, the court, in determining the merits of the motion, shall not compel the minor to testify at the hearing; nor shall the court deny the motion on the ground that the minor has not testified.

(3) In determining whether the impact on an individual child of one or more of the four factors enumerated in paragraph (2) of subdivision (b) is so substantial that the minor is unavailable as a witness unless two-way or one-way closed-circuit television is used, the court may question the minor in chambers, or at some other comfortable place other than the courtroom, on the record for a reasonable period of time with the support person, the prosecutor, and defense counsel present. The defendant or defendants shall not be present. The court shall conduct the questioning of the minor and shall not permit the prosecutor or defense counsel to examine the minor. The prosecutor and defense counsel shall be permitted to submit proposed questions to the court prior to the session in chambers. Defense counsel shall be afforded a reasonable opportunity to consult with the defendant or defendants prior to the conclusion of the session in chambers.

(e) When the court orders the testimony of a minor to be taken in another place outside of the courtroom, the court shall do all of the following:

(1) Make a brief statement on the record, outside of the presence

of the jury, of the reasons in support of its order. While the statement need not include traditional findings of fact, the reasons shall be set forth with sufficient specificity to permit meaningful review and to demonstrate that discretion was exercised in a careful, reasonable, and equitable manner.

(2) Instruct the members of the jury that they are to draw no inferences from the use of closed-circuit television as a means of facilitating the testimony of the minor.

(3) Instruct respective counsel, outside of the presence of the jury, that they are to make no comment during the course of the trial on the use of closed-circuit television procedures.

(4) Instruct the support witness, outside of the presence of the jury, that he or she is not to coach, cue, or in any way influence or attempt to influence the testimony of the minor.

(5) Order that a complete record of the examination of the minor, including the images and voices of all persons who in any way participate in the examination, be made and preserved on videotape in addition to being stenographically recorded. The videotape shall be transmitted to the clerk of the court in which the action is pending and shall be made available for viewing to the prosecuting attorney, the defendant, and his or her attorney during ordinary business hours. The videotape shall be destroyed after five years have elapsed from the date of entry of judgment. If an appeal is filed, the tape shall not be destroyed until a final judgment on appeal has been ordered. Any videotape which is taken pursuant to this section is subject to a protective order of the court for the purpose of protecting the privacy of the witness. This subdivision does not affect the provisions of subdivision (b) of Section 868.7.

(f) When the court orders the testimony of a minor to be taken in another place outside the courtroom, only the minor, a support person designated pursuant to Section 868.5, a nonuniformed bailiff, and, after consultation with the prosecution and the defense, a representative appointed by the court, shall be physically present for the testimony. A videotape shall record the image of the minor and his or her testimony, and a separate videotape shall record the image of the support person.

(g) When the court orders the testimony of a minor to be taken in another place outside the courtroom, the minor shall be brought into the judge's chambers prior to the taking of his or her testimony to meet for a reasonable period of time with the judge, the prosecutor, and defense counsel. A support person for the minor shall also be present. This meeting shall be for the purpose of explaining the court process to the child and to allow the attorneys an opportunity to establish rapport with the child to facilitate later questioning by closed-circuit television. No participant shall discuss the defendant or any of the facts of the case with the minor during this meeting.

(h) When the court orders the testimony of a minor to be taken in another place outside the courtroom, nothing in this section shall

prohibit the court from ordering the minor to be brought into the courtroom for a limited purpose including the identification of the defendant or defendants as the court deems necessary.

(i) The examination shall be under oath, and the defendant shall be able to see and hear the minor witness and if two-way closed-circuit television is used, the defendant's image shall be transmitted live to the witness.

(j) Nothing in this section shall affect the disqualification of witnesses pursuant to Section 701 of the Evidence Code.

(k) The cost of examination by contemporaneous closed-circuit television ordered pursuant to this section shall be borne by the court out of its existing budget.

SEC. 2. The amendments to Section 1347 of the Penal Code made by this act shall only apply to offenses alleged to have been committed on or after January 1, 1992.

CHAPTER 949

An act relating to county health services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. The sum of twelve million four hundred thousand dollars ($12,400,000) is appropriated during the 1990–91 fiscal year from the General Fund in augmentation of subdivision (d) of Item 4260-111-001 of the Budget Act of 1990 for transfer to the County Medical Services Program Account within the County Health Services Fund for the purposes set forth in Section 16709 of the Welfare and Institutions Code.

SEC. 2. (a) None of the funds appropriated by Section 1 of this act shall be disbursed until the Controller receives from each of the counties participating in the County Medical Services Program during the 1990–91 fiscal year a certification in the form set forth in subdivision (a) of Section 17556 of the Government Code indicating all of the following:

(1) The county is entitled to receive a portion of those funds.

(2) The county agrees to forego receipt of payment from the state during the 1991–92 and 1992–93 fiscal years for certain state-mandated local programs as specified in subdivision (b), until the total amount foregone by all counties equals the total amount of the appropriation in Section 1 of this act.

(3) The county shall continue to submit reimbursement claims, as defined in Section 17522 of the Government Code, so that the

Controller may determine the amounts of the reimbursement foregone.

(4) The county waives any right to submit any future claims for reimbursement of amounts foregone.

(b) The Department of Finance shall annually determine the specific state-mandated local programs for which counties will forego reimbursement, and shall notify the Controller of those determinations. The Controller shall withhold reimbursement for the costs of those programs until the combined amount foregone by all of the counties participating in the County Medical Services Program during the 1990-91 fiscal year is equal to the amount received by the County Medical Services Program from the appropriation in Section 1 of this act. Provision 2 of Item 8885-101-001 of the Budget Act of 1990, or a similar provision in any subsequent Budget Act, shall not apply to the amounts identified by the Controller as having been foregone by the participating counties pursuant to this act.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to continue the orderly and timely administration of the county health programs funded in whole or in part through the expenditures authorized pursuant to Section 16709 of the Welfare and Institutions Code, it is necessary that this act take effect immediately.

CHAPTER 950

An act to amend Section 53071.5 of the Government Code, to amend Sections 417.2, 12001, 12071, 12072, 12080, 12081, and 12084 of, to add Article 8 (commencing with Section 12800) to Chapter 6 of Title 2 of Part 4 of, and to repeal Section 12001.1 of, the Penal Code, relating to firearms, and making an appropriation therefor.

[Approved by Governor October 13, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 53071.5 of the Government Code is amended to read:

53071.5. By the enforcement of this section, the Legislature occupies the whole field of regulation of the manufacture, sale, or possession of imitation firearms, as defined in Section 417.2 of the Penal Code, and that section shall preempt and be exclusive of all regulations relating to the manufacture, sale, or possession of imitation firearms, including regulations governing the

manufacture, sale, or possession of BB guns and air rifles described in subdivision (g) of Section 12001 of the Penal Code.

SEC. 1.5. Section 417.2 of the Penal Code is amended to read:

417.2. (a) Every person who, except in self-defense, draws or exhibits a replica of a firearm in a threatening manner against another in such a way as to cause a reasonable person apprehension or fear of bodily harm is guilty of a misdemeanor punishable by imprisonment in the county jail for a term of not less than 30 days. As used in this subdivision, "a replica of a firearm" means any device with the apparent capability of expelling a projectile by the force of air or an explosion and which is reasonably perceived by the person against whom the device is drawn or exhibited to be an actual firearm, including starter pistols and air guns.

(b) Commencing January 1, 1989, any person who sells, manufactures, or distributes an imitation firearm in violation of this section shall be liable for a civil fine in an action brought by the city attorney of the city or the district attorney of the county of not more than ten thousand dollars ($10,000) for each violation.

As used in this section, "imitation firearm" means a replica of a firearm which is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.

The manufacture, sale, or distribution of imitation firearms is permitted if the device is manufactured, sold, or distributed (1) solely for export in interstate or foreign commerce, (2) solely for lawful use in theatrical productions, including motion picture, television, and stage productions, (3) for use in a certified or regulated athletic event or competition, (4) for use in military or civil defense activities, or (5) for public displays authorized by public or private schools.

(c) As used in this section, "imitation firearm" does not include (1) a nonfiring collector's replica of an antique firearm which was designed prior to 1898, is historically significant, and is offered for sale in conjunction with a wall plaque or presentation case; (2) a nonfiring collector's replica of a firearm which was designed after 1898, is historically significant, was issued as a commemorative by a nonprofit organization, and is offered for sale in conjunction with a wall plaque or presentation case; or (3) a device, as defined in subdivision (g) of Section 12001.

SEC. 2. Section 12001 of the Penal Code is amended to read:

12001. (a) As used in this title, the terms "pistol," "revolver," and "firearm capable of being concealed upon the person" shall apply to and include any device designed to be used as a weapon, from which is expelled a projectile by the force of any explosion, or other form of combustion, and which has a barrel less than 16 inches in length. These terms also include any device which has a barrel 16 inches or more in length which is designed to be interchanged with a barrel less than 16 inches in length.

(b) As used in this title, "firearm" means any device designed to

be used as a weapon, from which is expelled through a barrel a projectile by the force of any explosion or other form of combustion.

(c) As used in Sections 12021, 12021.1, 12070, 12071, 12072, and 12073 of this code, and Sections 8100 and 8103 of the Welfare and Institutions Code, the term "firearm" includes the frame or receiver of any such weapon.

(d) For the purpose of Sections 12025 and 12031, the term "firearm" also shall include any rocket, rocket propelled projectile launcher, or similar device containing any explosive or incendiary material whether or not the device is designed for emergency or distress signaling purposes.

(e) For purposes of Sections 12070, 12071, and subdivisions (b), (c), and (d) of Section 12072, the term "firearm" does not include an unloaded firearm which is defined as an "antique firearm" in Section 921(a)(16) of Title 18 of the United States Code or a curio, or relic, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations.

(f) Nothing shall prevent a device defined as a "pistol," "revolver," or "firearm capable of being concealed upon the person" from also being found to be a short-barreled shotgun or a short-barreled rifle, as defined in Section 12020.

(g) For purposes of Section 12551, the term "firearm" also shall include any instrument which expels a metallic projectile, such as a BB or a pellet, through the force of air pressure, CO_2 pressure, or spring action, or any spot marker gun.

SEC. 3. Section 12001 of the Penal Code is amended to read:

12001. (a) As used in this title, the terms "pistol," "revolver," and "firearm capable of being concealed upon the person" shall apply to and include any device designed to be used as a weapon, from which is expelled a projectile by the force of any explosion, or other form of combustion, and which has a barrel less than 16 inches in length. These terms also include any device which has a barrel 16 inches or more in length which is designed to be interchanged with a barrel less than 16 inches in length.

(b) As used in this title, "firearm" means any device designed to be used as a weapon, from which is expelled through a barrel a projectile by the force of any explosion or other form of combustion.

(c) As used in Sections 12021, 12021.1, 12070, 12071, 12072, and 12073 of this code, and Sections 8100 and 8103 of the Welfare and Institutions Code, the term "firearm" includes the frame or receiver of any such weapon.

(d) For the purpose of Sections 12025 and 12031, the term "firearm" also shall include any rocket, rocket propelled projectile launcher, or similar device containing any explosive or incendiary material whether or not the device is designed for emergency or distress signaling purposes.

(e) (1) For purposes of Sections 12070, 12071, and subdivisions (b), (c), and (d) of Section 12072, the term "firearm" does not include an unloaded firearm which is defined as an "antique

firearm" in Section 921 (a) (16) of Title 18 of the United States Code.

(2) For purposes of Sections 12070, 12071, and subdivisions (b), (c), and (d) of Section 12072, the term "firearm" does not include an unloaded firearm that meets both of the following:

(A) It is not a pistol, revolver, or other firearm capable of being concealed upon the person.

(B) It is a curio, or relic, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations.

(f) Nothing shall prevent a device defined as a "pistol," "revolver," or "firearm capable of being concealed upon the person" from also being found to be a short-barreled shotgun or a short-barreled rifle, as defined in Section 12020.

(g) For purposes of Section 12551, the term "firearm" also shall include any instrument which expels a metallic projectile, such as a BB or a pellet, through force of air pressure, CO_2 pressure, or spring action, or any spot marker gun.

SEC. 4. Section 12001.1 of the Penal Code is repealed.

SEC. 5. Section 12071 of the Penal Code, as amended by Chapter 5 of the Statutes of 1991, is amended to read:

12071. (a) (1) The duly constituted licensing authorities of any city, county, or city and county shall accept applications for, and may grant, licenses permitting the licensee to sell at retail within the city, county, or city and county, any firearms. If a license is granted, it shall be either in the form of a regulatory or business license or in the form prescribed by the Attorney General. The license shall be valid for not more than one year from the date of issue.

(2) The Department of Justice shall issue a statewide gun show license to all persons licensed pursuant to paragraph (1) upon demonstration by the person that he or she currently is licensed under paragraph (1). The department shall adopt regulations to implement this license program. The full costs incurred by the department in administering this program shall be recovered by fees assessed on persons who apply for a statewide gun show license.

(b) A license is subject to forfeiture for a breach of any of the following prohibitions and requirements:

(1) (A) Except as provided in subparagraph (B), the business shall be carried on only in the building designated in the license.

(B) A person licensed pursuant to subdivision (a) may, for purposes of complying with Section 12082, take possession of the firearm and commence preparation of the register for the sale, delivery, or transfer of firearms at a gun show or event, as defined in paragraph (b) of Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, if the gun show or event is not conducted from any motorized or towed vehicle and the licensee has obtained a statewide gun show license from the Department of Justice.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No firearm shall be delivered:

(A) Prior to January 1, 1996, within 15 days of the application for the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 15 days of the application for the purchase of a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 10 days of the application for the purchase of any other firearm, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 10 days of the submission to the department of corrected copies of the register, or within 10 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(B) Unless unloaded and securely wrapped or unloaded and in a locked container.

(C) Unless the purchaser or transferee either is personally known to the dealer or presents clear evidence of his or her identity and age to the dealer.

(D) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(4) No pistol, revolver, or other firearm capable of being concealed upon the person or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(5) The licensee shall agree to and shall act properly and promptly in processing transfers of firearms pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073 and 12077 and subdivisions (a) and (b) of Section 12072.

(7) All persons who receive a statewide gun show license shall publicly display the license at any gun show at which the licensee conducts activities as authorized pursuant to subparagraph (B) of paragraph (1).

(8) Commencing October 1, 1993, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser or transferee presents to the dealer a basic firearm safety certificate.

(9) Commencing July 1, 1992, the licensee shall offer to provide the purchaser or transferee of a firearm with a copy of the pamphlet

described in Section 12080 and may add the cost of the pamphlet, if any, to the sales price of the firearm.

(10) The licensee shall not commit an act of collusion as defined in Section 12072.

(c) As used in this article, "clear evidence of his or her identity and age" includes, but is not limited to, a motor vehicle operator's license, a state identification card, an armed forces identification card, an employment identification card which contains the bearer's signature and photograph, or any similar documentation which provides the seller reasonable assurance of the identity and age of the purchaser.

(d) As used in this article, "a basic firearm safety certificate" means a basic firearm certificate issued to the purchaser or transferee by the Department of Justice pursuant to Article 8 (commencing with Section 12800) of Chapter 6.

SEC. 6. Section 12071 of the Penal Code, as amended by Chapter 5 of the Statutes of 1991, is amended to read:

12071. (a) (1) As used in this chapter, the term "licensee" or "dealer" means a person who has (A) a valid federal firearms license, (B) any regulatory or business license, or licenses, required by local government, (C) a valid seller's permit issued by the State Board of Equalization, (D) a certificate of eligibility issued by the Department of Justice pursuant to paragraph (4), and (E) a license issued in the format prescribed by paragraph (6).

(2) The duly constituted licensing authority of a city, county, or a city and county shall accept applications for, and may grant licenses permitting, licensees to sell firearms at retail within the city, county, or city and county. The duly constituted licensing authority shall inform applicants who are denied licenses of the reasons for the denial in writing.

(3) No license shall be granted to any applicant who fails to provide a copy of his or her valid federal firearms license, valid seller's permit issued by the State Board of Equalization, and the certificate of eligibility described in paragraph (4).

(4) A person may request a certificate of eligibility from the Department of Justice and the Department of Justice shall issue such a certificate to an applicant when the department's records indicate that the applicant is not a person who is prohibited from possessing firearms.

(5) The department shall adopt regulations to administer the certificate of eligibility program and shall recover the full costs of administering the program by imposing fees assessed to applicants who apply for those certificates.

(6) A license granted by the duly constituted licensing authority of any city, county, or city and county, shall be valid for not more than one year from the date of issuance and shall be in one of the following forms:

(A) In the form prescribed by the Attorney General.

(B) A regulatory or business license which states on its face,

"Valid for Retail Sales of Firearms," and is endorsed by the signature of the issuing authority.

(C) A letter from the duly constituted licensing authority having primary jurisdiction for the applicant's intended business location stating that the jurisdiction does not require any form of regulatory or business license or does not otherwise restrict or regulate the sale of firearms.

(7) Local licensing authorities may assess fees to recover their full costs of processing applications for licenses.

(b) A license is subject to forfeiture for breach of any of the following prohibitions and requirements:

(1) (A) Except as provided in subparagraphs (B) and (C), the business shall be conducted only in the buildings designated in the license.

(B) A person licensed pursuant to subdivision (a), for purposes of complying with Section 12082, may take possession of firearms and commence preparation of registers for the sale, delivery, or transfer of firearms at gun shows or events, as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, provided the gun show or event is not conducted from any motorized or towed vehicle. A person conducting business pursuant to this subparagraph shall be entitled to conduct business as authorized herein at any gun show or event in the state without regard to the jurisdiction within this state that issued the license pursuant to subdivision (a).

A person licensed pursuant to subdivision (a), at gun shows and events, also may engage in the business of selling, leasing, or transferring firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, provided the person (i) complies with all other applicable provisions of law, including, but not limited to, the 15-day waiting period specified in subparagraph (A) of paragraph (3), and (ii) complies with all applicable local laws, regulations, and fees, if any.

A person conducting business pursuant to this subparagraph shall publicly display his or her license issued pursuant to subdivision (a), or a facsimile thereof, at any gun show or event, as specified in this subparagraph.

(C) A person licensed pursuant to subdivision (a) may engage in the sale and transfer of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, at events specified in subdivision (g) of Section 12078, subject to the prohibitions and restrictions contained in that subdivision.

A person licensed pursuant to subdivision (a) also may accept delivery of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, outside the building designated in the license, provided the firearm is being donated for the purpose of sale or transfer at an auction or similar event specified in subdivision (g) of Section 12078.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be

seen.

(3) No firearm shall be delivered:

(A) Prior to January 1, 1996, within 15 days of the application for the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 15 days of the application for the purchase of a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 10 days of the application for the purchase of any other firearm, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 10 days of the submission to the department of corrected copies of the register, or within 10 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(B) Unless unloaded and securely wrapped or unloaded and in a locked container.

(C) Unless the purchaser or transferee either is personally known to the dealer or presents clear evidence of his or her identity and age to the dealer.

(D) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(4) No pistol, revolver, or other firearm capable of being concealed upon the person or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(5) The licensee shall agree to and shall act properly and promptly in processing transfers of firearms pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073 and 12077 and subdivisions (a) and (b) of Section 12072.

(7) Commencing October 1, 1993, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser or transferee presents to the dealer a basic firearm safety certificate.

(8) Commencing July 1, 1992, the licensee shall offer to provide the purchaser or transferee of a firearm with a copy of the pamphlet described in Section 12080 and may add the cost of the pamphlet, if any, to the sales price of the firearm.

(9) The licensee shall not commit an act of collusion as defined in

Section 12072.

(c) As used in this article, "clear evidence of his or her identity and age" includes, but is not limited to, a motor vehicle operator's license, a state identification card, an armed forces identification card, an employment identification card which contains the bearer's signature and photograph, or any similar documentation which provides the seller reasonable assurance of the identity and age of the purchaser.

(d) As used in this article, "a basic firearm safety certificate" means a basic firearm certificate issued to the purchaser or transferee by the Department of Justice pursuant to Article 8 (commencing with Section 12800) of Chapter 6.

SEC. 7. Section 12071 of the Penal Code, as amended by Chapter 5 of the Statutes of 1991, is amended to read:

12071. (a) (1) The duly constituted licensing authorities of any city, county, or city and county shall accept applications for, and may grant, licenses permitting the licensee to sell at retail within the city, county, or city and county, any firearms. If a license is granted, it shall be either in the form of a regulatory or business license or in the form prescribed by the Attorney General. The license shall be valid for not more than one year from the date of issue. The full costs incurred by those licensing authorities in administering this program shall be recovered by fees assessed on persons who apply for a license to sell firearms at retail.

(2) The Department of Justice shall issue a statewide gun show license to all persons licensed pursuant to paragraph (1) upon demonstration by the person that he or she currently is licensed under paragraph (1). The department shall adopt regulations to implement this license program. The full costs incurred by the department in administering this program shall be recovered by fees assessed on persons who apply for a statewide gun show license.

(b) A license is subject to forfeiture for a breach of any of the following prohibitions and requirements:

(1) (A) Except as provided in subparagraph (B), the business shall be carried on only in the building designated in the license.

(B) A person licensed pursuant to subdivision (a) may, for purposes of complying with Section 12082, take possession of the firearm and commence preparation of the register for the sale, delivery, or transfer of firearms at a gun show or event, as defined in paragraph (b) of Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, if the gun show or event is not conducted from any motorized or towed vehicle and the licensee has obtained a statewide gun show license from the Department of Justice.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No firearm shall be delivered:

(A) Prior to January 1, 1996, within 15 days of the application for

the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 15 days of the application for the purchase of a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 10 days of the application for the purchase of any other firearm, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 10 days of the submission to the department of corrected copies of the register, or within 10 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(B) Unless unloaded.

(C) Unless one of the following applies:

(i) It is securely wrapped and, if it is capable of being equipped with a trigger-locking device, it is so equipped with a trigger-locking device purchased from the dealer at the time of delivery.

(ii) It is in a locked container.

(iii) It is in a locked gun rack purchased from the dealer at the time of delivery.

(D) Unless the purchaser or transferee either is personally known to the dealer or presents clear evidence of his or her identity and age to the dealer.

(E) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(4) No pistol, revolver, or other firearm capable of being concealed upon the person or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(5) The licensee shall agree to and shall act properly and promptly in processing transfers of firearms pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073 and 12077 and subdivisions (a) and (b) of Section 12072.

(7) All persons who receive a statewide gun show license shall publicly display the license at any gun show at which the licensee conducts activities as authorized pursuant to subparagraph (B) of paragraph (1).

(8) Commencing October 1, 1993, no pistol, revolver, or other firearm capable of being concealed upon the person shall be

delivered unless the purchaser or transferee presents to the dealer a basic firearm safety certificate.

(9) Commencing July 1, 1992, the licensee shall offer to provide the purchaser or transferee of a firearm with a copy of the pamphlet described in Section 12080 and may add the cost of the pamphlet, if any, to the sales price of the firearm.

(10) The licensee shall not commit an act of collusion as defined in Section 12072.

(c) (1) As used in this article, "clear evidence of his or her identity and age" includes, but is not limited to, a motor vehicle operator's license, a state identification card, an armed forces identification card, an employment identification card which contains the bearer's signature and photograph, or any similar documentation which provides the seller reasonable assurance of the identity and age of the purchaser.

(2) As used in this article, "trigger-locking device" means a device which is designed to prevent the firearm from functioning and which is locked by a padlock, key lock, combination lock, or similar locking device, that is reusable, and, when applied to the weapon, renders the weapon inoperable.

(d) As used in this article, "a basic firearm safety certificate" means a basic firearm certificate issued to the purchaser or transferee by the Department of Justice pursuant to Article 8 (commencing with Section 12800) of Chapter 6.

SEC. 8. Section 12071 of the Penal Code, as amended by Chapter 5 of the Statutes of 1991, is amended to read:

12071. (a) (1) The duly constituted licensing authorities of any city, county, or city and county shall accept applications for, and may grant, licenses permitting the licensee to sell at retail within the city, county, or city and county, any firearms. If a license is granted, it shall be either in the form of a regulatory or business license or in the form prescribed by the Attorney General. The license shall be valid for not more than one year from the date of issue.

(2) The Department of Justice shall issue a statewide gun show license to all persons licensed pursuant to paragraph (1) upon demonstration by the person that he or she currently is licensed under paragraph (1). The department shall adopt regulations to implement this license program. The full costs incurred by the department in administering this program shall be recovered by fees assessed on persons who apply for a statewide gun show license.

(b) A license is subject to forfeiture for a breach of any of the following prohibitions and requirements:

(1) (A) Except as provided in subparagraph (B), the business shall be carried on only in the building designated in the license.

(B) A person licensed pursuant to subdivision (a) may, for purposes of complying with Section 12082, take possession of the firearm and commence preparation of the register for the sale, delivery, or transfer of firearms at a gun show or event, as defined in paragraph (b) of Section 178.100 of Title 27 of the Code of Federal

Regulations, or its successor, if the gun show or event is not conducted from any motorized or towed vehicle and the licensee has obtained a statewide gun show license from the Department of Justice.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No firearm shall be delivered:

(A) Prior to January 1, 1996, within 15 days of the application for the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 15 days of the application for the purchase of a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 10 days of the application for the purchase of any other firearm, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 10 days of the submission to the department of corrected copies of the register, or within 10 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(B) Unless unloaded and securely wrapped or unloaded and in a locked container.

(C) Unless the purchaser or transferee either is personally known to the dealer or presents clear evidence of his or her identity and age to the dealer.

(D) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(4) No pistol, revolver, or other firearm capable of being concealed upon the person or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(5) The licensee shall agree to and shall act properly and promptly in processing transfers of firearms pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073 and 12077 and subdivisions (a) and (b) of Section 12072.

(7) The licensee shall post conspicuously within the licensed premises the following warning in block letters not less than three inches in height:

"IF YOU LEAVE A LOADED FIREARM WITHIN THE REACH OR EASY ACCESS OF A CHILD, YOU MAY BE FINED OR IMPRISONED, OR BOTH, IF THE CHILD GAINS ACCESS TO, AND IMPROPERLY USES, THE FIREARM."

(8) Commencing October 1, 1993, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser or transferee presents to the dealer a basic firearm safety certificate.

(9) Commencing July 1, 1992, the licensee shall offer to provide the purchaser or transferee of a firearm with a copy of the pamphlet described in Section 12080 and may add the cost of the pamphlet, if any, to the sales price of the firearm.

(10) The licensee shall not commit an act of collusion as defined in Section 12072.

(11) All persons who receive a statewide gun show license shall publicly display the license at any gun show at which the licensee conducts activities as authorized pursuant to subparagraph (B) of paragraph (1).

(c) As used in this article, "clear evidence of his or her identity and age" includes, but is not limited to, a motor vehicle operator's license, a state identification card, an armed forces identification card, an employment identification card which contains the bearer's signature and photograph, or any similar documentation which provides the seller reasonable assurance of the identity and age of the purchaser.

(d) As used in this article, "a basic firearm safety certificate" means a basic firearm certificate issued to the purchaser or transferee by the Department of Justice pursuant to Article 8 (commencing with Section 12800) of Chapter 6.

SEC. 9. Section 12071 of the Penal Code, as amended by Chapter 5 of the Statutes of 1991, is amended to read:

12071. (a) (1) As used in this chapter, the term "licensee" or "dealer" means a person who has (A) a valid federal firearms license, (B) any regulatory or business license, or licenses, required by local government, (C) a valid seller's permit issued by the State Board of Equalization, (D) a certificate of eligibility issued by the Department of Justice pursuant to paragraph (4), and (E) a license issued in the format prescribed by paragraph (6).

(2) The duly constituted licensing authority of a city, county, or a city and county shall accept applications for, and may grant licenses permitting, licensees to sell firearms at retail within the city, county, or city and county. The duly constituted licensing authority shall inform applicants who are denied licenses of the reasons for the denial in writing.

(3) No license shall be granted to any applicant who fails to provide a copy of his or her valid federal firearms license, valid seller's permit issued by the State Board of Equalization, and the certificate of eligibility described in paragraph (4).

(4) A person may request a certificate of eligibility from the

Department of Justice and the Department of Justice shall issue such a certificate to an applicant when the department's records indicate that the applicant is not a person who is prohibited from possessing firearms.

(5) The department shall adopt regulations to administer the certificate of eligibility program and shall recover the full costs of administering the program by imposing fees assessed to applicants who apply for those certificates.

(6) A license granted by the duly constituted licensing authority of any city, county, or city and county, shall be valid for not more than one year from the date of issuance and shall be in one of the following forms:

(A) In the form prescribed by the Attorney General.

(B) A regulatory or business license which states on its face, "Valid for Retail Sales of Firearms," and is endorsed by the signature of the issuing authority.

(C) A letter from the duly constituted licensing authority having primary jurisdiction for the applicant's intended business location stating that the jurisdiction does not require any form of regulatory or business license or does not otherwise restrict or regulate the sale of firearms.

(7) Local licensing authorities may assess fees to recover their full costs of processing applications for licenses.

(b) A license is subject to forfeiture for breach of any of the following prohibitions and requirements:

(1) (A) Except as provided in subparagraphs (B) and (C), the business shall be conducted only in the buildings designated in the license.

(B) A person licensed pursuant to subdivision (a), for purposes of complying with Section 12082, may take possession of firearms and commence preparation of registers for the sale, delivery, or transfer of firearms at gun shows or events, as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, provided the gun show or event is not conducted from any motorized or towed vehicle. A person conducting business pursuant to this subparagraph shall be entitled to conduct business as authorized herein at any gun show or event in the state without regard to the jurisdiction within this state that issued the license pursuant to subdivision (a).

A person licensed pursuant to subdivision (a), at gun shows and events, also may engage in the business of selling, leasing, or transferring firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, provided the person (i) complies with all other applicable provisions of law, including, but not limited to, the 15-day waiting period specified in subparagraph (A) of paragraph (3), and (ii) complies with all applicable local laws, regulations, and fees, if any.

A person conducting business pursuant to this subparagraph shall publicly display his or her license issued pursuant to subdivision (a), or a facsimile thereof, at any gun show or event, as specified in this

subparagraph.

(C) A person licensed pursuant to subdivision (a) may engage in the sale and transfer of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, at events specified in subdivision (g) of Section 12078, subject to the prohibitions and restrictions contained in that subdivision.

A person licensed pursuant to subdivision (a) also may accept delivery of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, outside the building designated in the license, provided the firearm is being donated for the purpose of sale or transfer at an auction or similar event specified in subdivision (g) of Section 12078.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No firearm shall be delivered:

(A) Prior to January 1, 1996, within 15 days of the application for the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 15 days of the application for the purchase of a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 10 days of the application for the purchase of any other firearm, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 10 days of the submission to the department of corrected copies of the register, or within 10 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(B) Unless unloaded and securely wrapped or unloaded and in a locked container.

(C) Unless the purchaser or transferee either is personally known to the dealer or presents clear evidence of his or her identity and age to the dealer.

(D) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(4) No pistol, revolver, or other firearm capable of being concealed upon the person or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(5) The licensee shall agree to and shall act properly and promptly in processing transfers of firearms pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073 and 12077 and subdivisions (a) and (b) of Section 12072.

(7) The licensee shall post conspicuously within the licensed premises the following warning in block letters not less than three inches in height:

"IF YOU LEAVE A LOADED FIREARM WITHIN THE REACH OR EASY ACCESS OF A CHILD, YOU MAY BE FINED OR IMPRISONED, OR BOTH, IF THE CHILD GAINS ACCESS TO, AND IMPROPERLY USES, THE FIREARM."

(8) Commencing October 1, 1993, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser or transferee presents to the dealer a basic firearm safety certificate.

(9) Commencing July 1, 1992, the licensee shall offer to provide the purchaser or transferee of a firearm with a copy of the pamphlet described in Section 12080 and may add the cost of the pamphlet, if any, to the sales price of the firearm.

(10) The licensee shall not commit an act of collusion as defined in Section 12072.

(c) As used in this article, "clear evidence of his or her identity and age" includes, but is not limited to, a motor vehicle operator's license, a state identification card, an armed forces identification card, an employment identification card which contains the bearer's signature and photograph, or any similar documentation which provides the seller reasonable assurance of the identity and age of the purchaser.

(d) As used in this article, "a basic firearm safety certificate" means a basic firearm certificate issued to the purchaser or transferee by the Department of Justice pursuant to Article 8 (commencing with Section 12800) of Chapter 6.

SEC. 10. Section 12071 of the Penal Code, as amended by Chapter 5 of the Statutes of 1991, is amended to read:

12071. (a) (1) The duly constituted licensing authorities of any city, county, or city and county shall accept applications for, and may grant, licenses permitting the licensee to sell at retail within the city, county, or city and county, any firearms. If a license is granted, it shall be either in the form of a regulatory or business license or in the form prescribed by the Attorney General. The license shall be valid for not more than one year from the date of issue. The full costs incurred by those licensing authorities in administering this program shall be recovered by fees assessed on persons who apply for a license to sell firearms at retail.

(2) The Department of Justice shall issue a statewide gun show license to all persons licensed pursuant to paragraph (1) upon demonstration by the person that he or she currently is licensed under paragraph (1). The department shall adopt regulations to

implement this license program. The full costs incurred by the department in administering this program shall be recovered by fees assessed on persons who apply for a statewide gun show license.

(b) A license is subject to forfeiture for a breach of any of the following prohibitions and requirements:

(1) (A) Except as provided in subparagraph (B), the business shall be carried on only in the building designated in the license.

(B) A person licensed pursuant to subdivision (a) may, for purposes of complying with Section 12082, take possession of the firearm and commence preparation of the register for the sale, delivery, or transfer of firearms at a gun show or event, as defined in paragraph (b) of Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, if the gun show or event is not conducted from any motorized or towed vehicle and the licensee has obtained a statewide gun show license from the Department of Justice.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No firearm shall be delivered:

(A) Prior to January 1, 1996, within 15 days of the application for the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 15 days of the application for the purchase of a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 10 days of the application for the purchase of any other firearm, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 10 days of the submission to the department of corrected copies of the register, or within 10 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(B) Unless unloaded.

(C) Unless one of the following applies:

(i) It is securely wrapped and, if it is capable of being equipped with a trigger-locking device, it is so equipped with a trigger-locking device purchased from the dealer at the time of delivery.

(ii) It is in a locked container.

(iii) It is in a locked gun rack purchased from the dealer at the time of delivery.

(D) Unless the purchaser or transferee either is personally known to the dealer or presents clear evidence of his or her identity and age

to the dealer.

(E) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(4) No pistol, revolver, or other firearm capable of being concealed upon the person or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(5) The licensee shall agree to and shall act properly and promptly in processing transfers of firearms pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073 and 12077 and subdivisions (a) and (b) of Section 12072.

(7) The licensee shall post conspicuously within the licensed premises the following warning in block letters not less than three inches in height.

"IF YOU LEAVE A LOADED FIREARM WITHIN THE REACH OR EASY ACCESS OF A CHILD, YOU MAY BE FINED OR IMPRISONED, OR BOTH, IF THE CHILD GAINS ACCESS TO, AND IMPROPERLY USES, THE FIREARM."

(8) Commencing October 1, 1993, no pistol, revolved, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser or transferee presents to the dealer a basic firearm safety certificate.

(9) Commencing July 1, 1992, the licensee shall offer to provide the purchaser or transferee of a firearm with a copy of the pamphlet described in Section 12080 and may add the cost of the pamphlet, if any, to the sales price of the firearm.

(10) The licensee shall not commit an act of collusion as defined in Section 12072.

(11) All persons who receive a statewide gun show license shall publicly display the license at any gun show at which the licensee conducts activities as authorized pursuant to subparagraph (B) of paragraph (1).

(c) (1) As used in this article, "clear evidence of his or her identity and age" includes, but is not limited to, a motor vehicle operator's license, a state identification card, an armed forces identification card, an employment identification card which contains the bearer's signature and photograph, or any similar documentation which provides the seller reasonable assurance of the identity and age of the purchaser.

(2) As used in this article, "trigger-locking device" means a device which is designed to prevent the firearm from functioning and which is locked by a padlock, key lock, combination lock, or similar locking device, that is reusable, and, when applied to the weapon, renders the weapon inoperable.

(d) As used in this article, "a basic firearm safety certificate"

means a basic firearm certificate issued to the purchaser or transferee by the Department of Justice pursuant to Article 8 (commencing with Section 12800) of Chapter 6.

SEC. 11. Section 12071 of the Penal Code, as amended by Chapter 5 of the Statutes of 1991, is amended to read:

12071. (a) (1) As used in this chapter, the term "licensee" or "dealer" means a person who has (A) a valid federal firearms license, (B) any regulatory or business license, or licenses, required by local government, (C) a valid seller's permit issued by the State Board of Equalization, (D) a certificate of eligibility issued by the Department of Justice pursuant to paragraph (4), and (E) a license issued in the format prescribed by paragraph (6).

(2) (A) The duly constituted licensing authority of a city, county, or a city and county shall accept applications for, and may grant licenses permitting licensees to sell firearms at retail within the city, county, or city and county.

(B) The duly constituted licensing authority shall inform applicants who are denied licenses of the reasons for the denial in writing.

(C) The full costs incurred by those licensing authorities in administering this program shall be recovered by fees assessed on persons who apply for a license to sell firearms at retail.

(3) No license shall be granted to any applicant who fails to provide a copy of his or her valid federal firearms license, valid seller's permit issued by the State Board of Equalization, and the certificate of eligibility described in paragraph (4).

(4) A person may request a certificate of eligibility from the Department of Justice and the Department of Justice shall issue such a certificate to an applicant when the department's records indicate that the applicant is not a person who is prohibited from possessing firearms.

(5) The department shall adopt regulations to administer the certificate of eligibility program and shall recover the full costs of administering the program by imposing fees assessed to applicants who apply for those certificates.

(6) A license granted by the duly constituted licensing authority of any city, county, or city and county, shall be valid for not more than one year from the date of issuance and shall be in one of the following forms:

(A) In the form prescribed by the Attorney General.

(B) A regulatory or business license which states on its face, "Valid for Retail Sales of Firearms," and is endorsed by the signature of the issuing authority.

(C) A letter from the duly constituted licensing authority having primary jurisdiction for the applicant's intended business location stating that the jurisdiction does not require any form of regulatory or business license or does not otherwise restrict or regulate the sale of firearms.

(7) Local licensing authorities may assess fees to recover their full

costs of processing applications for licenses.

(b) A license is subject to forfeiture for a breach of any of the following prohibitions and requirements:

(1) (A) Except as provided in subparagraphs (B) and (C), the business shall be conducted only in the buildings designated in the license.

(B) A person licensed pursuant to subdivision (a), for purposes of complying with Section 12082, may take possession of firearms and commence preparation of registers for the sale, delivery, or transfer of firearms at gun shows or events, as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, provided the gun show or event is not conducted from any motorized or towed vehicle. A person conducting business pursuant to this subparagraph shall be entitled to conduct business as authorized herein at any gun show or event in the state without regard to the jurisdiction within the state that issued the license pursuant to subdivision (a).

A person licensed pursuant to subdivision (a), at gun shows and events also may engage in the business of selling, leasing, or transferring firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, provided the person (i) complies with all other applicable provisions of law, including, but not limited to, the 15-day waiting period specified in subparagraph (A) of paragraph (3), and (ii) complies with all applicable local laws, regulations, and fees, if any.

A person conducting business pursuant to this subparagraph shall publicly display his or her license issued pursuant to subdivision (a), or a facsimile thereof, at any gun show or event, as specified in this subparagraph.

(C) A person licensed pursuant to subdivision (a) may engage in the sale and transfer of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, at events specified in subdivision (g) of Section 12078, subject to the prohibitions and restrictions contained in that subdivision.

A person licensed pursuant to subdivision (a) also may accept delivery of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, outside the building designated in the license, provided the firearm is being donated for the purpose of sale or transfer at an auction or similar event specified in subdivision (g) of Section 12078.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No firearm shall be delivered:

(A) Prior to January 1, 1996, within 15 days of the application for the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after

January 1, 1996, within 15 days of the application for the purchase of a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 10 days of the application for the purchase of any other firearm, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 10 days of the submission to the department of corrected copies of the register, or within 10 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(B) Unless unloaded.

(C) Unless one of the following applies:

(i) It is securely wrapped and, if it is capable of being equipped with a trigger-locking device, it is so equipped with a trigger-locking device purchased from the dealer at the time of delivery.

(ii) It is in a locked container.

(iii) It is in a locked gun rack purchased from the dealer at the time of delivery.

(D) Unless the purchaser or transferee either is personally known to the dealer or presents clear evidence of his or her identity and age to the dealer.

(E) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(4) No pistol, revolver, or other firearm capable of being concealed upon the person or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(5) The licensee shall agree to and shall act properly and promptly in processing transfers of firearms pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073 and 12077 and subdivisions (a) and (b) of Section 12072.

(7) Commencing October 1, 1993, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser or transferee presents to the dealer a basic firearm safety certificate.

(8) Commencing July 1, 1992, the licensee shall offer to provide the purchaser or transferee of a firearm with a copy of the pamphlet described in Section 12080 and may add the cost of the pamphlet, if any, to the sales price of the firearm.

(9) The licensee shall not commit an act of collusion as defined in Section 12072.

(c) (1) As used in this article, "clear evidence of his or her

identity and age" includes, but is not limited to, a motor vehicle operator's license, a state identification card, an armed forces identification card, an employment identification card which contains the bearer's signature and photograph, or any similar documentation which provides the seller reasonable assurance of the identity and age of the purchaser.

(2) As used in this article, "trigger-locking device" means a device which is designed to prevent the firearm from functioning and which is locked by a padlock, key lock, combination lock, or similar locking device, that is reusable, and, when applied to the weapon, renders the weapon inoperable.

(d) As used in this article, "a basic firearm safety certificate" means a basic firearm certificate issued to the purchaser or transferee by the Department of Justice pursuant to Article 8 (commencing with Section 12800) of Chapter 6.

SEC. 12. Section 12071 of the Penal Code, as amended by Chapter 5, of the Statutes of 1991, is amended to read:

12071. (a) (1) As used in this chapter, the term "licensee" or "dealer" means a person who has (A) a valid federal firearms license, (B) any regulatory or business license, or licenses, required by local government, (C) a valid seller's permit issued by the State Board of Equalization, (D) a certificate of eligibility issued by the Department of Justice pursuant to paragraph (4), and (E) a license issued in the format prescribed by paragraph (6).

(2) (A) The duly constituted licensing authority of a city, county, or a city and county shall accept applications for, and may grant licenses permitting licensees to sell firearms at retail within the city, county, or city and county

(B) The duly constituted licensing authority shall inform applicants who are denied licenses of the reasons for the denial in writing.

(C) The full costs incurred by those licensing authorities in administering this program shall be recovered by fees assessed on persons who apply for a license to sell firearms at retail.

(3) No license shall be granted to any applicant who fails to provide a copy of his or her valid federal firearms license, valid seller's permit issued by the State Board of Equalization, and the certificate of eligibility described in paragraph (4).

(4) A person may request a certificate of eligibility from the Department of Justice and the Department of Justice shall issue such a certificate to an applicant when the department's records indicate that the applicant is not a person who is prohibited from possessing firearms.

(5) The department shall adopt regulations to administer the certificate of eligibility program and shall recover the full costs of administering the program by imposing fees assessed to applicants who apply for those certificates.

(6) A license granted by the duly constituted licensing authority of any city, county, or city and county, shall be valid for not more

than one year from the date of issuance and shall be in one of the following forms:

(A) In the form prescribed by the Attorney General.

(B) A regulatory or business license which states on its face, "Valid for Retail Sales of Firearms," and is endorsed by the signature of the issuing authority.

(C) A letter from the duly constituted licensing authority having primary jurisdiction for the applicant's intended business location stating that the jurisdiction does not require any form of regulatory or business license or does not otherwise restrict or regulate the sale of firearms.

(7) Local licensing authorities may assess fees to recover their full costs of processing applications for licenses.

(b) A license is subject to forfeiture for a breach of any of the following prohibitions and requirements:

(1) (A) Except as provided in subparagraphs (B) and (C), the business shall be conducted only in the buildings designated in the license.

(B) A person licensed pursuant to subdivision (a), for purposes of complying with Section 12082, may take possession of firearms and commence preparation of registers for the sale, delivery, or transfer of firearms at gun shows or events, as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, provided the gun show or event is not conducted from any motorized or towed vehicle. A person conducting business pursuant to this subparagraph shall be entitled to conduct business as authorized herein at any gun show or event in the state without regard to the jurisdiction within this state that issued the license pursuant to subdivision (a).

A person licensed pursuant to subdivision (a), at gun shows and events, also may engage in the business of selling, leasing, or transferring firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, provided the person (i) complies with all other applicable provisions of law, including, but not limited to, the 15-day waiting period specified in subparagraph (A) of paragraph (3), and (ii) complies with all applicable local laws, regulations, and fees, if any.

A person conducting business pursuant to this subparagraph shall publicly display his or her license issued pursuant to subdivision (a), or a facsimile thereof, at any gun show or event, as specified in this subparagraph.

(C) A person licensed pursuant to subdivision (a) may engage in the sale and transfer of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, at events specified in subdivision (g) of Section 12078, subject to the prohibitions and restrictions contained in that subdivision.

A person licensed pursuant to subdivision (a) also may accept delivery of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, outside the building designated in the license, provided the firearm is being donated for

the purpose of sale or transfer at an auction or similar event specified in subdivision (g) of Section 12078.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No firearm shall be delivered:

(A) Prior to January 1, 1996, within 15 days of the application for the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 15 days of the application for the purchase of a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 10 days of the application for the purchase of any other firearm, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 10 days of the submission to the department of corrected copies of the register, or within 10 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(B) Unless unloaded.

(C) Unless one of the following applies:

(i) It is securely wrapped and, if it is capable of being equipped with a trigger-locking device, it is so equipped with a trigger-locking device purchased from the dealer at the time of delivery.

(ii) It is in a locked container.

(iii) It is in a locked gun rack purchased from the dealer at the time of delivery.

(D) Unless the purchaser or transferee either is personally known to the dealer or presents clear evidence of his or her identity and age to the dealer.

(E) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(4) No pistol, revolver, or other firearm capable of being concealed upon the person or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(5) The licensee shall agree to and shall act properly and promptly in processing transfers of firearms pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073 and 12077 and

subdivisions (a) and (b) of Section 12072.

(7) The licensee shall post conspicuously within the licensed premises the following warning in block letters not less than three inches in height:

"IF YOU LEAVE A LOADED FIREARM WITHIN THE REACH OR EASY ACCESS OF A CHILD, YOU MAY BE FINED OR IMPRISONED, OR BOTH, IF THE CHILD GAINS ACCESS TO, AND IMPROPERLY USES, THE FIREARM."

(8) Commencing October 1, 1993, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser or transferee presents to the dealer a basic firearm safety certificate.

(9) Commencing July 1, 1992, the licensee shall offer to provide the purchaser or transferee of a firearm with a copy of the pamphlet described in Section 12080 and may add the cost of the pamphlet, if any, to the sales price of the firearm.

(10) The licensee shall not commit an act of collusion as defined in Section 12072.

(c) (1) As used in this article, "clear evidence of his or her identity and age" includes, but is not limited to, a motor vehicle operator's license, a state identification card, an armed forces identification card, an employment identification card which contains the bearer's signature and photograph, or any similar documentation which provides the seller reasonable assurance of the identity and age of the purchaser.

(2) As used in this article, "trigger-locking device" means a device which is designed to prevent the firearm from functioning and which is locked by a padlock, key lock, combination lock, or similar locking device, that is reusable, and when applied to the weapon, renders the weapon inoperable.

(d) As used in this article, "a basic firearm safety certificate" means a basic firearm certificate issued to the purchaser or transferee by the Department of Justice pursuant to Article 8 (commencing with Section 12800) of Chapter 6.

SEC. 13. Section 12072 of the Penal Code, as amended by Chapter 5 of the Statutes of 1991, is amended to read:

12072. (a) (1) Any person, corporation, or firm who shall knowingly supply, sell, or give possession or control of any firearm to any person within any of the classes prohibited by Section 12021 or 12021.1 shall be punished by imprisonment in the state prison, or in a county jail for a period not exceeding one year, or by a fine of not exceeding one thousand dollars ($1,000), or by both the fine and imprisonment.

(2) No person, corporation, or dealer shall sell, deliver, or otherwise transfer any firearm to any person whom he or she has cause to believe to be within any of the classes prohibited by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(b) No person licensed under Section 12071 shall sell, deliver, or

transfer any pistol, revolver, or firearm capable of being concealed upon the person to any person under the age of 21 years or any other firearm to a person under the age of 18 years.

(c) No dealer licensed pursuant to Section 12071, whether or not acting pursuant to Section 12082, shall deliver a firearm to a purchaser or transferee, as follows:

(1) Prior to January 1, 1996, within 15 days of the application for the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 15 days of the application for the purchase of a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 10 days of the application for the purchase of any other firearm, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 10 days of the submission to the department of corrected copies of the register, or within 10 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(2) Unless unloaded and securely wrapped or unloaded and in a locked container.

(3) Unless the purchaser or transferee presents clear evidence of his or her identity and age, as defined in Section 12071, to the dealer or is personally known to the dealer.

(4) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(5) Commencing October 1, 1993, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser or transferee presents to the dealer a basic firearm safety certificate.

(d) Where neither party to the transaction holds a dealer's license issued pursuant to Section 12071, in order for a person to sell or otherwise transfer a firearm, the parties to the transaction shall complete the transaction through a licensed dealer pursuant to Section 12082.

(e) No person may commit an act of collusion relating to Article 8 (commencing with Section 12800) of Chapter 6. For purposes of this section and Section 12071, collusion may be proven by any one of the following factors:

(1) Answering a test applicant's questions during an objective test relating to basic firearms safety.

(2) Knowingly misgrading the examination.

(3) Providing an advance copy of the test to an applicant.

(4) Taking or allowing another person to take the basic firearms safety course for one who is the applicant for the basic firearms safety certificate.

(5) Allowing another to take the objective test for the applicant, purchaser, or transferee.

(6) Allowing others to give unauthorized assistance during the examination.

(7) Reference to materials during the examination and cheating by the applicant.

(8) Providing originals or photocopies of the objective test, or any version thereof, to any person other than as specified in subdivision (f) of Section 12805.

(9) After administering the test, failing to keep each applicant's test for a period of one year.

(f) Except as provided in paragraph (1) of subdivision (a), a violation of this section is a misdemeanor. A second or subsequent violation of this section shall be punished in accordance with the penalty and probation provisions of subdivision (c) of Section 12100 concerning subsequent convictions and probation.

SEC. 14. Section 12072 of the Penal Code, as amended by Chapter 5 of the Statutes of 1991, is amended to read:

12072. (a) (1) Any person, corporation, or firm who shall knowingly supply, sell, or give possession or control of any firearm to any person within any of the classes prohibited by Section 12021 or 12021.1 shall be punished by imprisonment in the state prison, or in a county jail for a period not exceeding one year, or by a fine of not exceeding one thousand dollars ($1,000), or by both the fine and imprisonment.

(2) No person, corporation, or dealer shall sell, deliver, or otherwise transfer any firearm to any person whom he or she has cause to believe to be within any of the classes prohibited by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(b) No person licensed under Section 12071 shall sell, deliver, or transfer any pistol, revolver, or firearm capable of being concealed upon the person to any person under the age of 21 years or any other firearm to a person under the age of 18 years.

(c) No dealer licensed pursuant to Section 12071, whether or not acting pursuant to Section 12082, shall deliver a firearm to a purchaser or transferee, as follows:

(1) Prior to January 1, 1996, within 15 days of the application for the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 15 days of the application for the purchase of

a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 10 days of the application for the purchase of any other firearm, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 10 days of the submission to the department of corrected copies of the register, or within 10 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(2) Unless unloaded.

(3) Unless one of the following applies:

(A) It is securely wrapped and, if it is capable of being equipped with a trigger-locking device, it is so equipped with a trigger-locking device purchased from the dealer at the time of delivery.

(B) It is in a locked container.

(C) It is in a locked gun rack purchased from the dealer at the time of delivery.

(4) Unless the purchaser or transferee presents clear evidence of his or her identity and age, as defined in Section 12071, to the dealer or is personally known to the dealer.

(5) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(6) Commencing October 1, 1993, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser or transferee presents to the dealer a basic firearms safety certificate.

(d) Where neither party to the transaction holds a dealer's license issued pursuant to Section 12071, in order for a person to sell or otherwise transfer a firearm, the parties to the transaction shall complete the transaction through a licensed dealer pursuant to Section 12082.

(e) No person may commit an act of collusion relating to Article 8 (commencing with Section 12800) of Chapter 6. For purposes of this section and Section 12071, collusion may be proven by any one of the following factors:

(1) Answering a test applicant's questions during an objective test relating to basic firearms safety.

(2) Knowingly misgrading the examination.

(3) Providing an advance copy of the test to an applicant.

(4) Taking or allowing another person to take the basic firearms safety course for one who is the applicant for the basic firearms safety certificate.

(5) Allowing another to take the objective test for the applicant, purchaser, or transferee.

(6) Allowing others to give unauthorized assistance during the examination.

(7) Reference to materials during the examination and cheating by the applicant.

(8) Providing originals or photocopies of the objective test, or any version thereof, to any person other than as specified in subdivision (f) of Section 12805.

(9) After administering the test, failing to keep each applicant's test for a period of one year.

(f) Except as provided in paragraph (1) of subdivision (a), a violation of this section is a misdemeanor. A second or subsequent violation of this section shall be punished in accordance with the penalty and probation provisions of subdivision (c) of Section 12100 concerning subsequent convictions and probation.

SEC. 15. Section 12072 of the Penal Code, as amended by Chapter 5 of the Statutes of 1991, is amended to read:

12072. (a) (1) Any person, corporation, or firm who shall knowingly supply, sell, or give possession or control of any firearm to any person within any of the classes prohibited by Section 12021 or 12021.1 shall be punished by imprisonment in the state prison, or in a county jail for a period not exceeding one year, or by a fine of not exceeding one thousand dollars ($1,000), or by both the fine and imprisonment.

(2) No person, corporation, or dealer shall sell, deliver, or otherwise transfer any firearm to any person whom he or she has cause to believe to be within any of the classes prohibited by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(b) No person licensed under Section 12071 shall sell, deliver, or transfer any pistol, revolver, or firearm capable of being concealed upon the person to any person under the age of 21 years or any other firearm to a person under the age of 18 years.

(c) No dealer licensed pursuant to Section 12071, whether or not acting pursuant to Section 12082, shall deliver a firearm to a purchaser or transferee, as follows:

(1) Prior to January 1, 1996, within 15 days of the application for the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 15 days of the application for the purchase of a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 10 days of the application for the purchase of

any other firearm, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 10 days of the submission to the department of corrected copies of the register, or within 10 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(2) Unless unloaded and securely wrapped or unloaded and in a locked container.

(3) Unless the purchaser or transferee presents clear evidence of his or her identity and age, as defined in Section 12071, to the dealer or is personally known to the dealer.

(4) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(5) Commencing October 1, 1993, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser or transferee presents to the dealer a basic firearm safety certificate.

(d) Where neither party to the transaction holds a dealer's license issued pursuant to Section 12071, in order for a person to sell or otherwise transfer a firearm, the parties to the transaction shall complete the transaction through either of the following:

(1) A licensed dealer pursuant to Section 12082.

(2) A law enforcement agency pursuant to Section 12084.

(e) No person may commit an act of collusion relating to Article 8 (commencing with Section 12800) of Chapter 6. For purposes of this section and Section 12071, collusion may be proven by any one of the following factors:

(1) Answering a test applicant's questions during an objective test relating to basic firearms safety.

(2) Knowingly misgrading the examination.

(3) Providing an advance copy of the test to an applicant.

(4) Taking or allowing another person to take the basic firearms safety course for one who is the applicant for the basic firearms safety certificate.

(5) Allowing another to take the objective test for the applicant, purchaser, or transferee.

(6) Allowing others to give unauthorized assistance during the examination.

(7) Reference to materials during the examination and cheating by the applicant.

(8) Providing originals or photocopies of the objective test, or any version thereof, to any person other than as specified in subdivision (f) of Section 12805.

(9) After administering the test, failing to keep each applicant's test for a period of one year.

(f) Except as provided in paragraph (1) of subdivision (a), a violation of this section is a misdemeanor. A second or subsequent violation of this section shall be punished in accordance with the

penalty and probation provisions of subdivision (c) of Section 12100 concerning subsequent convictions and probation.

SEC. 16. Section 12072 of the Penal Code, as amended by Chapter 5 of the Statutes of 1991, is amended to read:

12072. (a) (1) Any person, corporation, or firm who shall knowingly supply, sell, or give possession or control of any firearm to any person within any of the classes prohibited by Section 12021 or 12021.1 shall be punished by imprisonment in the state prison, or in a county jail for a period not exceeding one year, or by a fine of not exceeding one thousand dollars ($1,000), or by both the fine and imprisonment.

(2) No person, corporation, or dealer shall sell, deliver, or otherwise transfer any firearm to any person whom he or she has cause to believe to be within any of the classes prohibited by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(b) No person licensed under Section 12071 shall sell, deliver, or transfer any pistol, revolver, or firearm capable of being concealed upon the person to any person under the age of 21 years or any other firearm to a person under the age of 18 years.

(c) No dealer licensed pursuant to Section 12071, whether or not acting pursuant to Section 12082, shall deliver a firearm to a purchaser or transferee, as follows:

(1) Prior to January 1, 1996, within 15 days of the application for the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 15 days of the application for the purchase of a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 10 days of the application for the purchase of any other firearm, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 10 days of the submission to the department of corrected copies of the register, or within 10 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(2) Unless unloaded.

(3) Unless one of the following applies:

(A) It is securely wrapped and, if it is capable of being equipped with a trigger-locking device, it is so equipped with a trigger-locking device purchased from the dealer at the time of delivery.

(B) It is in a locked container.

(C) It is in a locked gun rack purchased from the dealer at the

time of delivery.

(4) Unless the purchaser or transferee presents clear evidence of his or her identity and age, as defined in Section 12071, to the dealer or is personally known to the dealer.

(5) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(6) Commencing October 1, 1993, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser or transferee presents to the dealer a basic firearm safety certificate.

(d) Where neither party to the transaction holds a dealer's license issued pursuant to Section 12071, in order for a person to sell or otherwise transfer a firearm, the parties to the transaction shall complete the transaction through either of the following:

(1) A licensed dealer pursuant to Section 12082.

(2) A law enforcement agency pursuant to Section 12084.

(e) No person may commit an act of collusion relating to Article 8 (commencing with Section 12800) of Chapter 6. For purposes of this section and Section 12071, collusion may be proven by any one of the following factors:

(1) Answering a test applicant's questions during an objective test relating to basic firearms safety.

(2) Knowingly misgrading the examination.

(3) Providing an advance copy of the test to an applicant.

(4) Taking or allowing another person to take the basic firearms safety course for one who is the applicant for the basic firearms safety certificate.

(5) Allowing another to take the objective test for the applicant, purchaser, or transferee.

(6) Allowing others to give unauthorized assistance during the examination.

(7) Reference to materials during the examination and cheating by the applicant.

(8) Providing originals or photocopies of the objective test, or any version thereof, to any person other than as specified in subdivision (f) of Section 12805.

(9) After administering the test, failing to keep each applicant's test for a period of one year.

(f) Except as provided in paragraph (1) of subdivision (a), a violation of this section is a misdemeanor. A second or subsequent violation of this section shall be punished in accordance with the penalty and probation provisions of subdivision (c) of Section 12100 concerning subsequent convictions and probation.

SEC. 17. Section 12080 of the Penal Code is amended to read:

12080. (a) The Department of Justice shall prepare a pamphlet which summarizes California firearms laws as they pertain to persons other than law enforcement officers or members of the armed

services.

(b) The pamphlet shall include the following matters:

(1) Lawful possession.

(2) Licensing procedures.

(3) Transportation and use of firearms.

(4) Acquisition of hunting licenses.

(5) The safe handling and use of firearms.

(6) Various methods of safe storage and child proofing of firearms.

(7) The availability of firearms safety programs and devices.

(8) The responsibilities of firearms ownership.

(9) The operation of various types of firearms.

(10) The lawful use of deadly force.

(c) The department shall offer copies of the pamphlet at actual cost to firearms dealers licensed pursuant to Section 12071 who shall have copies of the most current version available for sale to retail purchasers or transferees of firearms. The cost of the pamphlet, if any, may be added to the sale price of the firearm. Other interested parties may purchase copies directly from the Department of General Services. The pamphlet shall declare that it is merely intended to provide a general summary of laws applicable to firearms and is not designed to provide individual guidance for specific areas. Individuals having specific questions shall be directed to contact their local law enforcement agency or private counsel.

(d) The Department of Justice or any other public entity shall be immune from any liability arising from the drafting, publication, or dissemination of the pamphlet or any reliance upon it. All receipts from the sale of these pamphlets shall be deposited as reimbursements to the support appropriation for the Department of Justice.

SEC. 18. Section 12081 of the Penal Code is amended to read:

12081. (a) A party may sell, deliver, or otherwise transfer a firearm to a person licensed under Section 12071 without waiting to deliver the firearm until the conclusion of the waiting period described in Section 12071 or 12072.

(b) A basic firearms safety certificate shall not be required for any of the following transactions:

(1) The sale, transfer, or delivery of a pistol, revolver, or other firearm capable of being concealed upon the person to a dealer licensed pursuant to Section 12071.

(2) The sale, transfer, or delivery of a pistol, revolver, or other firearm capable of being concealed upon the person between or to importers and manufacturers of firearms licensed to engage in that business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(3) The sale, transfer, or delivery of a pistol, revolver, or other firearm capable of being concealed upon the person to an active member of the United States Armed Forces, the National Guard, the Air National Guard, and the active reserve components of the United

States, who is properly identified. For purposes of this paragraph, proper identification includes the Armed Forces Identification Card, or other written documents certifying that the person is an active member of the United States Armed Forces, the National Guard, the Air National Guard, or the active reserve components of the United States.

(4) The sale, transfer, or delivery of a pistol, revolver, or other firearm capable of being concealed upon the person to any person honorably discharged from the United States Armed Forces, the National Guard, the Air National Guard, or active reserve components of the United States who is properly identified. For purposes of this paragraph, proper identification includes a Retired Armed Forces Identification Card, or other written document certifying the person as being honorably discharged.

(5) The sale, transfer, or delivery of a pistol, revolver, or other firearm capable of being concealed upon the person to any of the following persons who are properly identified:

(A) Any California or federal peace officer who is authorized to carry a firearm while on duty.

(B) Any honorably retired peace officer, as defined in Section 830.1, 830.2, or subdivision (c) of Section 830.5.

(C) Any honorably retired federal officers or agents who were authorized to, and did, carry firearms in the course and scope of their duties and are authorized to carry firearms pursuant to subdivision (i) of Section 12027.

(D) Any persons who have permits to carry concealed weapons pursuant to Article 3 (commencing with Section 12050) of Chapter 1.

(E) Any persons who have a certificate of competency or a certificate of completion in hunter safety as provided in Article 2.5 (commencing with Section 3049) of Chapter 1 of Part 1 of Division 4 of the Fish and Game Code, which bears a hunter safety instruction validation stamp affixed thereto.

(F) Any person who holds a valid hunting license issued by the State of California.

(G) Any person who is authorized to carry loaded firearms pursuant to subdivision (c) or (d) of Section 12031.

(H) Any person who has been issued a certificate pursuant to Section 12033.

(I) Any basic firearms safety instructor certified by the department pursuant to Section 12805.

(J) Persons who are properly identified as authorized participants in shooting matches approved by the Director of Civilian Marksmanship pursuant to the applicable provisions of Title 10 of the United States Code.

(K) Persons who have successfully completed the course of training specified in Section 832.

SEC. 19. Section 12084 of the Penal Code, as added by Section 8.1 of AB 664, is amended to read:

12084. (a) As used in this section, the following definitions shall control:

(1) "Agency" means a sheriff's department in a county of less than 200,000 persons, according to the most recent federal decennial census which elects to process purchases, sales, or transfers of firearms.

(2) "Seller" means the seller or transferor of a firearm.

(3) "Purchaser" means the purchaser or transferee of a firearm.

(4) "Purchase" means the purchase, sale, or transfer of a firearm.

(5) "Department" means the Department of Justice.

(6) "LEFT" means the Law Enforcement Firearms Transfer Form consisting of the transfer form utilized to purchase a firearm in accordance with this section.

(b) As an alternative to completing the sale or transfer of a firearm through a licensed dealer pursuant to Section 12082 in order to comply with the provisions of subdivision (d) of Section 12072, the parties to the purchase of a firearm may complete the transaction through an agency in accordance with this section in order to comply with the provisions of subdivision (d) of Section 12072.

(c) (1) LEFTs shall be prepared by the State Printer and shall be furnished to agencies on application at a cost to be determined by the Department of General Services for each 100 leaves in quintuplicate, one original and four duplicates for the making of carbon copies. The original and duplicate copies shall differ in color, and shall be in the form provided by this section. The State Printer, upon issuing the LEFT, shall forward to the department the name and address of the agency together with the series and sheet numbers on the LEFT. The LEFT shall not be transferable.

(2) The department shall prescribe the form of the LEFT. It shall be in the same exact format set forth in Sections 12077 and 12082, with the same distinct formats for firearms that are pistols, revolvers, and other firearms capable of being concealed upon the person and for firearms that are not pistols, revolvers, and other firearms capable of being concealed upon the person, except that instead of the listing of information concerning a dealer, the LEFT shall contain the name, telephone number, and address of the law enforcement agency.

(3) The original of each LEFT shall be retained in consecutive order. Each book of 50 originals shall become the permanent record of transactions that shall be retained not less than three years from the date of the last transaction and shall be provided for the inspection of any peace officer, department employee designated by the Attorney General, or agents of the federal Bureau of Alcohol, Tobacco and Firearms upon the presentation of proper identification.

(4) Ink shall be used to complete each LEFT. The agency shall ensure that all information is provided legibly. The purchaser and seller shall be informed that incomplete or illegible information delays purchases.

(5) Each original LEFT shall contain instructions regarding the procedure for completion of the form and the routing of the form. The agency shall comply with these instructions which shall include the information set forth in this subdivision.

(6) One firearm transaction shall be reported on each LEFT.

(d) The following procedures shall be followed in processing the purchase:

(1) Without waiting for the conclusion of any waiting period to elapse, the seller shall immediately deliver the firearm to the agency solely to complete the LEFT. Upon completion of the LEFT, the firearm shall be immediately returned by the agency to the seller without waiting for the waiting period to elapse.

(2) The purchaser shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the agency. The agency shall require the purchaser to complete the original and one copy of the LEFT. An employee of the agency shall then affix his or her signature as a witness to the signature and identification of the purchaser.

(3) Two copies of the LEFT shall, on that date of purchase, be placed in the mail, postage prepaid to the department at Sacramento. The third copy shall be provided to the purchaser and the fourth copy to the seller.

(4) The department shall examine its records, as well as those records that it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(5) If the department determines that the copies of the LEFT submitted to it pursuant to paragraph (3) contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or the firearm to be purchased, or if any fee required pursuant to paragraph (6) is not submitted by the agency in conjunction with submission of the copies of the LEFT, or if the department determines that the person is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, it shall immediately notify the agency of that fact. Upon notification by the department, the purchaser shall submit any fee required pursuant to paragraph (6), as appropriate, and if notification by the department is received by the agency at any time prior to delivery of the firearm, the delivery of the firearm shall be withheld until the conclusion of the waiting period described in paragraph (7).

(6) The department and the agency may both charge a fee not to exceed the actual cost of processing the purchaser sufficient to reimburse both of the following:

(A) The agency for processing the transfer.

(B) The department for providing the information. The department shall charge the same fee as it would charge a dealer

pursuant to Section 12082. All sums received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Special Account of the General Fund.

(7) The firearm shall not be delivered to the purchaser as follows:

(A) Prior to January 1, 1996, within 15 days of application for the purchase or, after notice by the department pursuant to paragraph (5), within 15 days of the submission to the department of any fees required pursuant to this subdivision, or within 15 days of a corrected LEFT, whichever is later. On or after January 1, 1996, within 15 days of the application for the purchase of a pistol, revolver, or other firearm capable of being concealed upon the person, or after notice by the department pursuant to paragraph (5), within 15 days of the submission to the department of any fees required pursuant to this subdivision, or within 15 days of the submission to the department of corrected copies of the LEFT, whichever is later. On or after January 1, 1996, within 10 days of the application for purchase of a firearm other than a pistol, revolver, or other firearm capable of being concealed upon the person, or after notice by the department pursuant to paragraph (5), or within 10 days of submission to the department of any fees required pursuant to this subdivision, or within 10 days of the submission to the department of corrected copies of the LEFT, whichever is later.

(B) Unless unloaded.

(C) In the case of a pistol, revolver, or other firearm capable of being concealed upon the person, unless securely wrapped or in a locked container.

(D) Unless the purchaser presents clear evidence of his or her identity and age to the agency.

(E) Whenever the agency is notified by the department that the person is in a prohibited class described in Section 12021 or 12021.1 or Section 8100 or 8103 of the Welfare and Institutions Code.

(F) Unless done at the agency's premises.

(G) In the case of a pistol, revolver, or other firearm capable of being concealed upon the person, commencing October 1, 1993, unless the purchaser presents to the seller a basic firearm safety certificate.

(e) The action of a law enforcement agency acting pursuant to Section 12084 shall be deemed to be a discretionary act within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

(f) Whenever the Department of Justice acts pursuant to this section as it pertains to firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, its acts or omissions shall be deemed to be discretionary within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

(g) Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the LEFT is

guilty of a misdemeanor.

SEC. 20. Article 8 (commencing with Section 12800) is added to Chapter 6 of Title 2 of Part 4 of the Penal Code, to read:

Article 8. Basic Firearm Safety Instruction and Certificate

12800. (a) The Legislature finds and declares as follows:

(1) Although California has a 15-day waiting period and background check for the acquisition and purchase of pistols, revolvers, and firearms capable of being concealed upon the person, a demonstrated knowledge of firearms safety is not required. Therefore, a person is able to obtain one of these firearms in California without having any idea of how to safely use, handle, or store it.

(2) In contrast, it is necessary for an individual to complete a firearms-related hunter safety course before a hunting license is issued. It has been documented that this program has saved lives, and has been beneficial to sportsmen and firearms owners.

(3) It is inconsistent for a person to have to go through a firearms-related hunter safety course before being able to use a firearm to hunt, yet not be required to have any basic knowledge about the safe handling and operation of pistols, revolvers, and other firearms capable of being concealed upon the person before acquiring them.

(b) The Legislature further finds and declares as follows:

(1) It has been documented that firearms accidents are one of the leading causes of accidental deaths for children ages 14 years and under. Almost all of the firearms involved in these accidents are pistols, revolvers, or other firearms capable of being concealed upon the person.

(2) On average, one child 18 years of age or under is accidentally killed, and 10 are injured, by a firearm every day across the United States.

(3) Firearm wounds to children who are 16 years of age and under have increased 300 percent in major urban areas since 1986.

(4) In 1987, the last year for which statistics are available, there were 44 accidental firearms deaths among California children 18 years of age and younger.

(5) Although statistics are not kept for injuries resulting from accidental shootings, it is estimated that for every firearms death, there are at least five nonfatal firearms injuries. Using this figure, it is estimated that approximately 220 California children were injured in nonfatal accidental shootings in 1987.

(6) Research has indicated that easy access in homes to loaded pistols, revolvers, and other firearms capable of being concealed upon the person is a chief contributing factor in unintentional shootings of children. Nearly 8,700,000 youngsters in the United States have access to pistols, revolvers, and other firearms capable of being concealed upon the person.

(7) Educating purchaser and transferees of pistols, revolvers, and other firearms capable of being concealed upon the person would make them more aware of their responsibilities as gun owners and help to eliminate the ignorance or neglect that lead to children playing with a loaded pistol, revolver, and other firearms capable of being concealed upon the person.

(c) It is, therefore, the intent of the Legislature, in enacting this article, to require in this state that purchasers and transferees of pistols, revolvers, and other firearms capable of being concealed upon the person obtain a basic familiarity with those firearms, including, but not limited to, the safe handling and storage of those firearms, methods for childproofing those firearms, and the responsibilities associated with ownership of those firearms.

(d) It is further the intent of the Legislature, in enacting this article, to establish a program that would help to eliminate the potential for accidental deaths and injuries, particularly those involving children, which are caused by the unsafe handling of pistols, revolvers, and other firearms capable of being concealed upon the person.

12801. As used in this article, "basic firearms safety certificate" means the certificate issued to persons who have complied with this article.

12802. (a) No basic firearms safety certificate shall be issued to any person unless that person has complied with this article. Proof of compliance with this article shall be forwarded to the Department of Justice as frequently as the department may determine.

(b) It is the intent of the Legislature to require a basic firearms safety certificate for persons who anticipate the purchase or transfer of a pistol, revolver, or other firearm capable of being concealed upon the person. This requirement of a certificate is not intended to be a requirement for the mere possession of a firearm.

12803. (a) Beginning on January 1, 1993, and prior to July 1, 1993, the Department of Justice shall do all of the following:

(1) Develop the course content and instructional materials for a basic firearms safety course. The course shall consist of not less than two, nor more than four, hours of instruction, including, but not limited to, instruction in the following areas as they pertain to pistols, revolvers, and other firearms capable of being concealed upon the person:

(A) The safe use, handling, and storage of those firearms.

(B) Methods for childproofing those firearms.

(C) The laws applicable to the carrying and handling of those firearms.

(D) The responsibilities of ownership of those firearms.

(2) Develop an instructional manual and, if the department deems necessary, audiovisual materials, to be issued to an instructor certified by the department. The department shall make the instructional manual available to firearms dealers licensed pursuant to Section 12071, who shall have it available to the general public.

Essential portions of the manual may be included in the pamphlet described in Section 12080.

(3) Prescribe a minimum level of skill, knowledge, and competency to be required of all basic firearms safety instructors, and develop and provide the guidelines to be used to certify the instructors.

(4) Develop an objective test on the subject matter of the basic firearms safety course. The objective test shall be based on the instructional manual referred to in paragraph (2). There shall be no less than five distinct versions of the objective test. The purpose of the objective test shall be to ensure knowledge of basic firearms safety. The test shall consist of not less than 20, nor more than 30, questions. An applicant shall respond successfully to at least 75 percent of the total number of questions in order to pass the test.

(b) The department shall solicit input from any reputable association or organization which has, as one of its objectives, the promotion of firearms safety in the development of the basic firearms safety course.

(c) The department shall periodically update the curriculum of the basic firearms safety course, instructional materials, the basic firearms safety manual, the objective test, and guidelines for certifying basic firearms safety instructors, as needed.

(d) The department shall develop basic firearms safety certificates to be issued by the department, or an instructor certified by the department, to those persons who have complied with this article.

(e) The department shall ensure that the course shall be available to persons at convenient times and locations in a person's county of residency by January 1, 1993.

(f) The Department of Justice shall be immune from any liability arising from implementing this section.

12804. (a) The department shall maintain adequate records on who has successfully completed the basic firearms safety course or otherwise complied with this article.

(b) Proficiency in the use of any pistol, revolver, or other firearm capable of being concealed upon the person shall not be a prerequisite to acquiring the basic firearms safety certificate.

(c) No person shall be required to complete the course more than once, except that any person who has completed the course and is unable to produce the certificate shall be required to take the course again unless a duplicate certificate is issued pursuant to Section 12807.

12805. (a) The department shall designate as a basic firearms safety instructor any person certified by a nationally recognized organization that fosters safety in firearms or any person found by the department to be competent to give instruction in the basic firearms safety course established pursuant to this article, if the person is otherwise qualified pursuant to Section 12803.

(b) The department shall designate as a basic firearms safety

instructor, dealers licensed pursuant to Section 12071 or their employees if they otherwise are qualified to act as instructors. Where the license is issued in the name of a corporation or partnership, then the managing officer or partner shall be designated as instructors if they are otherwise qualified pursuant to Section 12803.

(c) The department shall revoke the certification of any instructor when the department determines that it is in the best interests of the state to do so.

(d) Upon successful completion of the basic firearms safety course, which shall be conditioned solely upon the attendance of the course as specified in Section 12803, a person shall immediately be issued a basic firearms safety certificate by the instructor.

(e) The instructor may also administer the objective test referred to in Section 12809 at the site where the basic firearms safety course is given. Any person receiving a passing grade, as specified in Section 12803, on the test shall be immediately issued a basic firearms safety certificate by the instructor. Any person who fails to pass the test administered by the course instructor, shall be given additional instructional materials by the instructor and be told that they may not retake the test under any circumstance until 24 hours have elapsed.

(f) Instructors shall forward to the department the names of those persons who have received basic firearms safety certificates, the method by which the person obtained the basic firearms safety certificate, and assure that originals or photocopies of the objective test, or any version thereof, are not made available to applicants for the objective test, whether or not they pass the objective test.

(g) Instructors shall notify applicants for the basic firearms safety certificate that they may be issued a basic firearms safety certificate by attending the basic firearms safety course, by passing the objective test, or are exempt from this article by virtue of subdivision (b) of Section 12081.

12806. (a) A fee to cover the costs of giving the basic firearms safety course instruction and issuance of the basic firearm safety certificate may be charged by the instructor to each person participating and receiving instruction in basic firearms safety. The department may impose a charge not to exceed ten dollars ($10) for each person participating and receiving instruction in the basic firearms safety course to cover the department's cost in carrying out this article as determined annually by the department. The instructor of the course shall collect and submit the charge to the department to be deposited into the Firearms Safety Training Fund Special Account as provided in subdivision (b).

(b) All money received by the department pursuant to this article shall be deposited in the Firearms Safety Training Fund Special Account, which is hereby created in the General Fund and continuously appropriated for expenditure by the department for the costs incurred pursuant to this article.

12807. (a) In case of loss or destruction of a basic firearms safety

certificate, a duplicate certificate shall be issued by the department.

(b) A fee, not to exceed five dollars ($5), may be charged by the department to each person applying for a duplicate certificate.

12808. Upon application to the department, the department shall certify any existing firearms safety course or program which provides, as a minimum, as part of its curriculum, instruction in all of the subject matters in accordance with the basic firearms safety course established pursuant to this article, and shall authorize the course or program to issue basic firearms safety certificates to those who complete the course or program.

12809. (a) Any person who has reason to believe that he or she does not need to complete the basic firearms safety course may take an objective test on the subject matter of the basic firearms safety course from an instructor certified by the department. The objective test shall contain written notice to the applicant on the top of the first page that he or she may not take the test more than twice within a six-month period.

(b) Any person receiving a passing grade on the test shall be immediately issued a basic firearms safety certificate by the instructor. When the objective test is being administered, the certified instructor may only give administrative instructions. Any person who fails to pass the objective test upon the first attempt shall be given additional instructional materials by the instructor such as a videotape or booklet. The person may not retake the objective test under any circumstances until 24 hours have elapsed after the failure to pass the objective test upon the first attempt. The person failing the test on the first attempt shall take another version of the test upon the second attempt. All tests shall be taken from the same instructor except upon permission of the department, which shall be granted only for good cause shown. The instructor shall make himself or herself available to the applicant during regular business hours in order to retake the test. If the person fails the objective test upon a second attempt, then the person shall attend the basic firearms safety course pursuant to Section 12805 in order to be issued a basic firearms safety certificate.

(c) The Department of Justice shall set the fee for taking the objective test and issuance of the basic firearms safety certificate at an amount commensurate with the actual cost to the department, but not to exceed twenty dollars ($20), ten dollars ($10) of which shall be forwarded to the department to cover its costs. The fee paid shall entitle the applicant to take the objective test twice if necessary. Commencing with the 1992–93 fiscal year, the department may submit a budget change proposal to the Department of Finance if funds beyond those funds otherwise appropriated to the department are required for the startup costs of the programs specified in this article. The Department of Finance shall transfer funds from a nongeneral fund special account used by the Department of Justice to the Firearms Safety Training Fund Special Account as a loan of those funds. Any funds received by the department pursuant to the

budget change proposal submitted pursuant to this section shall be immediately reimbursed from the Firearms Safety Training Fund Special Account as funds in that account are available back to the nongeneral fund special account from which the funds were borrowed.

(d) (1) If a dealer licensed pursuant to Section 12071 or his or her employee, or where the managing officer or partner is certified as an instructor pursuant to this article, he or she shall also comply with all of the following provisions:

(A) Designate a separate room or partitioned area for a person to take the objective test.

(B) Maintain adequate supervision to assure that no acts of collusion occur while the objective test is being administered.

(C) If the firearm is a pistol, revolver, or other firearm capable of being concealed upon the person, it shall not be delivered unless the dealer provides the purchaser or transferee instructions at the time of delivery on how to operate the firearm, including, but not limited to methods of loading and unloading the firearm, and the location of any safety on the firearm and how the safety operates.

(2) If the provisions specified in subparagraphs (A) and (B) of paragraph (1) cannot be complied with, the applicant shall be advised that he or she may take the objective test wherever the basic firearms safety course is being offered.

SEC. 21. If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 22. (a) Section 3 of this bill incorporates amendments to Section 12001 of the Penal Code proposed by both this bill and AB 242. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2) each bill amends Section 12001 of the Penal Code, and (3) this bill is enacted after AB 242, in which case Section 12001 of the Penal Code, as amended by AB 242, shall remain operative only until the operative date of this bill, at which time Section 3 of this bill shall become operative, and Section 2 of this bill shall not become operative.

(b) (1) Section 6 of this bill incorporates amendments to Section 12071 of the Penal Code proposed by both this bill and AB 242. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2) each bill amends Section 12071 of the Penal Code, and (3) AB 2029 and SB 134 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 242, in which case Section 12071 of the Penal Code, as amended by AB 242, shall remain operative only until the operative date of this bill, at which time Section 6 of this bill shall become operative, and Sections 5, 7, 8, 9, 10, 11, and 12 of this bill shall not become operative.

(2) Section 7 of this bill incorporates amendments to Section 12071

of the Penal Code proposed by both this bill and SB 134. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 12071 of the Penal Code, (3) AB 242 and AB 2029 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after SB 134, in which case Sections 5, 6, 8, 9, 10, 11, and 12 of this bill shall not become operative.

(3) Section 8 of this bill incorporates amendments to Section 12071 of the Penal Code proposed by both this bill and AB 2029. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 12071 of the Penal Code, (3) AB 242 and SB 134 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 2029, in which case Sections 5, 6, 7, 9, 10, 11, and 12 of this bill shall not become operative.

(4) Section 9 of this bill incorporates amendments to Section 12071 of the Penal Code proposed by this bill, AB 242, and AB 2029. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1992, (2) all three bills amend Section 12071 of the Penal Code, (3) SB 134 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 242 and AB 2029, in which case Section 12071 of the Penal Code, as amended by AB 242, shall remain operative only until the operative date of this bill, at which time Section 9 of this bill shall become operative, and Sections 5, 6, 7, 8, 10, 11, and 12 of this bill shall not become operative.

(5) Section 10 of this bill incorporates amendments to Section 12071 of the Penal Code proposed by this bill, AB 2029, and SB 134. It shall only become operative if (1) all three bills are enacted and become effective on January 1, 1992, (2) all three bills amend Section 12071 of the Penal Code, (3) AB 242 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2029 and SB 134, in which case Sections 5, 6, 7, 8, 9, 11, and 12 of this bill shall not become operative.

(6) Section 11 of this bill incorporates amendments to Section 12071 of the Penal Code proposed by this bill, AB 242, and SB 134. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1992, (2) all three bills amend Section 12071 of the Penal Code, (3) AB 2029 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 242 and SB 134, in which case Section 12071 of the Penal Code, as amended by AB 242, shall remain operative only until the operative date of this bill, at which time Section 11 of this bill shall become operative, and Sections 5, 6, 7, 8, 9, 10, and 12 of this bill shall not become operative.

(7) Section 12 of this bill incorporates amendments to Section 12071 of the Penal Code proposed by this bill, AB 242, AB 2029, and SB 134. It shall only become operative if (1) all four bills are enacted and become effective on or before January 1, 1992, (2) all four bills

amend Section 12071 of the Penal Code, and (3) this bill is enacted after AB 242, AB 2029, and SB 134, in which case Section 12071 of the Penal Code, as amended by AB 242, shall remain operative only until the operative date of this bill, at which time Section 12 of this bill shall become operative, and Sections 5, 6, 7, 8, 9, 10, and 11 of this bill shall not become operative.

(c) (1) Section 14 of this bill incorporates amendments to Section 12072 of the Penal Code proposed by both this bill and SB 134. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 12072 of the Penal Code, (3) AB 664 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 134, in which case Sections 13, 15, and 16 of this bill shall not become operative.

(2) Section 15 of this bill incorporates amendments to Section 12072 of the Penal Code proposed by both this bill and AB 664. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 12072 of the Penal Code, (3) SB 134 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 664, in which case Sections 13, 14, and 16 of this bill shall not become operative.

(3) Section 16 of this bill incorporates amendments to Section 12072 of the Penal Code proposed by this bill, SB 134, and AB 664. It shall only become operative if (1) all three bills are enacted and become effective on January 1, 1992, (2) all three bills amend Section 12072 of the Penal Code, and (3) this bill is enacted after SB 134 and AB 664, in which case Sections 13, 14, and 15 of this bill shall not become operative.

SEC. 23. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 951

An act to amend Sections 11106, 12026.2, 12070, 12072, 12073, 12076, 12077, and 12078 of, and to add Section 12084 to, the Penal Code, to amend Sections 8100 and 8105 of, and to add Section 8108 to, the Welfare and Institutions Code, and to amend Section 2 of Chapter 1180 of the Statutes of 1988, relating to firearms.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 11106 of the Penal Code is amended to read:

11106. (a) In order to assist in the investigation of crime, the arrest and prosecution of criminals, and the recovery of lost, stolen, or found property, the Attorney General shall keep and properly file a complete record of all copies of fingerprints, copies of applications for licenses to carry concealed weapons, dealers' records of sales of firearms, reports provided pursuant to subdivision (a) of Section 12078, forms provided pursuant to Section 12084, and reports of stolen, lost, found, pledged, or pawned property in any city or county of this state, and shall, upon proper application therefor, furnish to the officers mentioned in Section 11105, hard copy printouts of those records as photographic, photostatic, and nonerasable optically stored reproductions.

(b) Notwithstanding subdivision (a), the Attorney General shall not retain or compile any information from reports filed pursuant to subdivision (a) of Section 12078 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person, from forms submitted pursuant to Section 12084 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person, or from dealers' records of sales for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person. All copies of the forms submitted pursuant to Section 12084 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person, or of the dealers' records of sales for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person shall be destroyed within five days of the clearance by the Attorney General, unless the purchaser or transferor is ineligible to take possession of the firearm. All copies of the reports filed pursuant to subdivision (a) of Section 12078 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person shall be destroyed within five days of the receipt by the Attorney General, unless retention is necessary for use in a criminal prosecution.

A violation of this subdivision is a misdemeanor.

SEC. 2. Section 12026.2 of the Penal Code is amended to read:

12026.2. (a) Section 12025 does not apply to or affect any of the following:

(1) The possession of a firearm by an authorized participant in a motion picture, television, or video production or entertainment event when the participant lawfully uses the firearm as part of that production or event or while going directly to or directly from that production or event.

(2) The possession of a firearm in a locked container by a member of any club or organization, organized for the purpose of lawfully collecting and lawfully displaying pistols, revolvers, or other firearms, while the member is at meetings of the clubs or organizations or while going directly to and coming directly from those meetings.

(3) The transportation of a firearm by a participant when going directly to or coming directly from a recognized safety or hunter safety class, or a recognized sporting event involving that firearm.

(4) The transportation of a firearm by a person mentioned in Section 12026, directly between any of the places mentioned in Section 12026.

(5) The transportation of a firearm by a person when going directly to or coming directly from a fixed place of business or private residential property for the purpose of the lawful repair or the lawful transfer of that firearm.

(6) The transportation of a firearm by a person listed in Section 12026 when going directly from the place where that person lawfully received that firearm to that person's place of residence or place of business or to private property owned or lawfully possessed by that person.

(7) The transportation of a firearm by a person when going directly to or coming directly from a gun show, swap meet, or similar event to which the public is invited, for the purposes of displaying that firearm in a lawful manner.

(8) The transportation of a firearm by an authorized employee or agent of a supplier of firearms when going directly to or coming directly from a motion picture, television, or video production or entertainment event for the purpose of providing that firearm to an authorized participant to lawfully use as a part of that production or event.

(9) The transportation of a firearm by a person when going directly to or coming directly from a target range, which holds a regulatory or business license, for the purposes of practicing shooting at targets with that firearm at that target range.

(10) The transportation of a firearm by a person when going directly to or coming directly from a place designated by a person authorized to issue licenses pursuant to Section 12050 when done at the request of the issuing agency so that the issuing agency can determine whether or not a license should be issued to that person to carry that firearm.

(11) The transportation of a firearm by a person when going

directly to or coming directly from a law enforcement agency for the purpose of a lawful transfer of that firearm pursuant to Section 12084.

(12) The transportation of a firearm by a person when going directly to or coming directly from lawful camping activity for purposes of having that firearm available for lawful personal protection while at the lawful campsite. This paragraph shall not be construed to override the statutory authority granted to the Department of Parks and Recreation or any other state or local governmental agencies to promulgate rules and regulations governing the administration of parks and campgrounds.

(b) In order for a firearm to be exempted under subdivision (a), while being transported to or from a place, the firearm shall be unloaded, kept in a locked container, as defined in subdivision (d), and the course of travel shall include only those deviations between authorized locations as are reasonably necessary under the circumstances.

(c) This section does not prohibit or limit the otherwise lawful carrying or transportation of any pistol, revolver, or other firearm capable of being concealed upon the person in accordance with this chapter.

(d) As used in this section, "locked container" means a secure container which is fully enclosed and locked by a padlock, key lock, combination lock, or similar locking device. The term "locked container" does not include the utility or glove compartment of a motor vehicle.

SEC. 3. Section 12070 of the Penal Code is amended to read:

12070. (a) No person shall engage in the business of selling, leasing, or transferring firearms unless he or she has been issued a license pursuant to Section 12071. Any person violating this section is guilty of a misdemeanor.

(b) As used in this article, engaging in the business of selling, leasing, or transferring of firearms does not include any of the following:

(1) The sale, lease, or transfer of any firearm by a person acting pursuant to a court order or pursuant to the Enforcement of Judgments Law (Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure), or by a person who liquidates a personal firearm collection to satisfy a court judgment.

(2) The sale, lease, or transfer of firearms by a person acting pursuant to subdivision (c) of Section 12028.

(3) The sale, lease, or transfer of a firearm by a person who obtains title to the firearm by intestate succession or by bequest, provided the person disposes of the firearm within 60 days of receipt of the firearm.

(4) The infrequent sale, lease, or transfer of firearms.

(5) The activities of a law enforcement agency pursuant to Section 12084.

(c) As used in this section, "infrequent" means:

(1) For pistols, revolvers, and other firearms capable of being

concealed upon the person, less than six transactions per calendar year. For this purpose, "transaction" means a single sale, lease, or transfer of any number of pistols, revolvers, or other firearms capable of being concealed upon the person.

(2) For firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, occasional and without regularity.

SEC. 4. Section 12072 of the Penal Code is amended to read:

12072. (a) (1) Any person, corporation, or firm who shall knowingly supply, sell, or give possession or control of any firearm to any person within any of the classes prohibited by Section 12021 or 12021.1 shall be punished by imprisonment in the state prison, or in a county jail for a period not exceeding one year, or by a fine of not exceeding one thousand dollars ($1,000), or by both the fine and imprisonment.

(2) No person, corporation, or dealer shall sell, deliver, or otherwise transfer any firearm to any person whom he or she has cause to believe to be within any of the classes prohibited by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(b) No person licensed under Section 12071 shall sell, deliver, or transfer any pistol, revolver, or firearm capable of being concealed upon the person to any person under the age of 21 years or any other firearm to a person under the age of 18 years.

(c) No dealer licensed pursuant to Section 12071, whether or not acting pursuant to Section 12082, shall deliver a firearm to a purchaser or transferee, as follows:

(1) Prior to January 1, 1996, within 15 days of the application for the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 15 days of the application for the purchase of a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 10 days of the application for the purchase of any other firearm, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 10 days of the submission to the department of corrected copies of the register, or within 10 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(2) Unless unloaded and securely wrapped or unloaded and in a locked container.

(3) Unless the purchaser or transferee presents clear evidence of

his or her identity and age, as defined in Section 12071, to the dealer or is personally known to the dealer.

(4) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(d) Where neither party to the transaction holds a dealer's license issued pursuant to Section 12071, in order for a person to sell or otherwise transfer a firearm, the parties to the transaction shall complete the transaction through either of the following:

(1) A licensed dealer pursuant to Section 12082.

(2) A law enforcement agency pursuant to Section 12084.

(e) Except as provided in paragraph (1) of subdivision (a), a violation of this section is a misdemeanor. A second or subsequent violation of this section shall be punished in accordance with the penalty and probation provisions of subdivision (c) of Section 12100 concerning subsequent convictions and probation.

SEC. 4.1. Section 12072 of the Penal Code is amended to read:

12072. (a) (1) Any person, corporation, or firm who shall knowingly supply, sell, or give possession or control of any firearm to any person within any of the classes prohibited by Section 12021 or 12021.1 shall be punished by imprisonment in the state prison, or in a county jail for a period not exceeding one year, or by a fine of not exceeding one thousand dollars ($1,000), or by both the fine and imprisonment.

(2) No person, corporation, or dealer shall sell, deliver, or otherwise transfer any firearm to any person whom he or she has cause to believe to be within any of the classes prohibited by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(b) No person licensed under Section 12071 shall sell, deliver, or transfer any pistol, revolver, or firearm capable of being concealed upon the person to any person under the age of 21 years or any other firearm to a person under the age of 18 years.

(c) No dealer licensed pursuant to Section 12071, whether or not acting pursuant to Section 12082, shall deliver a firearm to a purchaser or transferee, as follows:

(1) Prior to January 1, 1996, within 15 days of the application for the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 15 days of the application for the purchase of a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to

subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 10 days of the application for the purchase of any other firearm, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 10 days of the submission to the department of corrected copies of the register, or within 10 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(2) Unless unloaded and securely wrapped or unloaded and in a locked container.

(3) Unless the purchaser or transferee presents clear evidence of his or her identity and age, as defined in Section 12071, to the dealer or is personally known to the dealer.

(4) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(5) Commencing July 1, 1993, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser or transferee presents to the dealer a basic firearm safety certificate.

(d) Where neither party to the transaction holds a dealer's license issued pursuant to Section 12071, in order for a person to sell or otherwise transfer a firearm, the parties to the transaction shall complete the transaction through either of the following:

(1) A licensed dealer pursuant to Section 12082.

(2) A law enforcement agency pursuant to Section 12084.

(e) No person may commit an act of collusion relating to Article 8 (commencing with Section 12800) of Chapter 6. For purposes of this section and Section 12071, collusion may be proven by any one of the following factors:

(1) Answering a test applicant's questions during an objective test relating to basic firearms safety.

(2) Knowingly misgrading the examination.

(3) Providing an advance copy of the test to an applicant.

(4) Taking or allowing another person to take the basic firearms safety course for one who is the applicant for the basic firearms safety certificate.

(5) Allowing another to take the objective test for the applicant, purchaser, or transferee.

(6) Allowing others to give unauthorized assistance during the examination.

(7) Reference to materials during the examination and cheating by the applicant.

(8) Providing originals or photocopies of the objective test, or any version thereof, to any person other than as specified in subdivision (f) of Section 12805.

(f) Except as provided in paragraph (1) of subdivision (a), a violation of this section is a misdemeanor. A second or subsequent violation of this section shall be punished in accordance with the

penalty and probation provisions of subdivision (c) of Section 12100 concerning subsequent convictions and probation.

SEC. 5. Section 12073 of the Penal Code is amended to read:

12073. (a) Every person engaged in the business of selling, leasing, or otherwise transferring a firearm, whether the seller, lessor, or transferor is a retail dealer, pawnbroker, or otherwise, except as provided by this chapter, shall keep a register in which shall be entered the information prescribed in Section 12077.

(b) This section shall not apply to wholesale dealers in their business intercourse with retail dealers, nor to wholesale or retail dealers in the regular or ordinary transport of unloaded firearms as merchandise to other wholesale or retail dealers by mail, express or other mode of shipment, to points outside of the city or county wherein they are situated.

SEC. 6. Section 12076 of the Penal Code is amended to read:

12076. (a) The purchaser or transferee of any firearm shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name and affix his or her residence address and date of birth to the register in quadruplicate. The salesperson shall affix his or her signature to the register in quadruplicate as a witness to the signature and identification of the purchaser or transferee. Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the register and any person violating any provision of this section is guilty of a misdemeanor.

(b) Two copies of the original sheet of the register, on the date of sale or transfer, shall be placed in the mail, postage prepaid, and properly addressed to the Department of Justice in Sacramento. The third copy of the original shall be mailed, postage prepaid, to the chief of police, or other head of the police department, of the city or county wherein the sale or transfer is made. Where the sale or transfer is made in a district where there is no municipal police department, the third copy of the original sheet shall be mailed to the sheriff of the county wherein the sale or transfer is made.

The third copy for firearms, other than pistols, revolvers, or other firearms capable of being concealed upon the person shall be destroyed within five days of receipt and no information shall be compiled therefrom.

(c) The department shall examine its records, as well as those records that it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser or transferee is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

If the department determines that the purchaser or transferee is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, it shall

immediately notify the dealer of that fact.

If the department determines that the copies of the register submitted to it pursuant to subdivision (b) contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or transferee or the pistol, revolver, or other firearm to be purchased or transferred, or if any fee required pursuant to subdivision (d) is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to subdivision (d), or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased or transferred, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

(d) The Department of Justice may charge the dealer a fee sufficient to reimburse all of the following:

(1) (A) The department for the cost of furnishing this information. All money received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Special Account of the General Fund, which is hereby created, to be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to this section.

(B) The department for the cost of meeting its obligations under paragraph (2) of subdivision (b) of Section 8100 of the Welfare and Institutions Code.

(2) Local mental health facilities for state-mandated local costs resulting from the reporting requirements imposed by the amendments to Section 8103 of the Welfare and Institutions Code, made by the act which also added this paragraph.

(3) The State Department of Mental Health for the costs resulting from the requirements imposed by the amendments to Section 8104 of the Welfare and Institutions Code made by the act which also added this paragraph.

(4) Local mental hospitals, sanitariums, and institutions for state-mandated local costs resulting from the reporting requirements imposed by Section 8105 of the Welfare and Institutions Code.

(5) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code.

The fee established pursuant to this subdivision shall not exceed the sum of the actual processing costs of the department, the estimated reasonable costs of the local mental health facilities for complying with the reporting requirements imposed by the act which added paragraph (2) to this subdivision, the costs of the State Department of Mental Health for complying with the requirements imposed by the act which added paragraph (3) to this subdivision,

the estimated reasonable costs of local mental hospitals, sanitariums, and institutions for complying with the reporting requirements imposed by the act which added paragraph (4) to this subdivision, and the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code created by the act which added paragraph (5) to this subdivision.

(e) Whenever the Department of Justice acts pursuant to this section as it pertains to firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, its acts or omissions shall be deemed to be discretionary within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

SEC. 6.1. Section 12076 of the Penal Code is amended to read:

12076. (a) The purchaser or transferee of any firearm shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name and affix his or her residence address and date of birth to the register in quadruplicate. The salesperson shall affix his or her signature to the register in quadruplicate as a witness to the signature and identification of the purchaser or transferee. Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the register and any person violating any provision of this section is guilty of a misdemeanor.

(b) Two copies of the original sheet of the register, on the date of sale or transfer, shall be placed in the mail, postage prepaid, and properly addressed to the Department of Justice in Sacramento. The third copy of the original shall be mailed, postage prepaid, to the chief of police, or other head of the police department, of the city or county wherein the sale or transfer is made. Where the sale or transfer is made in a district where there is no municipal police department, the third copy of the original sheet shall be mailed to the sheriff of the county wherein the sale or transfer is made.

The third copy for firearms, other than pistols, revolvers, or other firearms capable of being concealed upon the person shall be destroyed within five days of receipt and no information shall be compiled therefrom.

(c) The department shall examine its records, as well as those records that it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser or transferee is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

If the department determines that the purchaser or transferee is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, it shall immediately notify the dealer and the chief of the police department

of the city or county in which the sale or transfer was made, or if the sale or transfer was made in a district in which there is no municipal police department, the sheriff of the county in which the sale or transfer was made, of that fact.

If the department determines that the copies of the register submitted to it pursuant to subdivision (b) contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or transferee or the pistol, revolver, or other firearm to be purchased or transferred, or if any fee required pursuant to subdivision (d) is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to subdivision (d), or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased or transferred, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

(d) The Department of Justice may charge the dealer a fee sufficient to reimburse all of the following:

(1) (A) The department for the cost of furnishing this information. All money received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Special Account of the General Fund, which is hereby created, to be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to this section.

(B) The department for the cost of meeting its obligations under paragraph (2) of subdivision (b) of Section 8100 of the Welfare and Institutions Code.

(2) Local mental health facilities for state-mandated local costs resulting from the reporting requirements imposed by the amendments to Section 8103 of the Welfare and Institutions Code, made by the act which also added this paragraph.

(3) The State Department of Mental Health for the costs resulting from the requirements imposed by the amendments to Section 8104 of the Welfare and Institutions Code made by the act which also added this paragraph.

(4) Local mental hospitals, sanitariums, and institutions for state-mandated local costs resulting from the reporting requirements imposed by Section 8105 of the Welfare and Institutions Code.

(5) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (b) of Section 550 of the Code of Civil Procedure created by the act which also added this paragraph.

(6) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code.

The fee established pursuant to this subdivision shall not exceed the sum of the actual processing costs of the department, the estimated reasonable costs of the local mental health facilities for complying with the reporting requirements imposed by the act which added paragraph (2) of this subdivision, the costs of the State Department of Mental Health for complying with the requirements imposed by the act which added paragraph (3) to this subdivision, the estimated reasonable costs of local mental hospitals, sanitariums, and institutions for complying with the reporting requirements imposed by the act which added paragraph (4) to this subdivision, the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (b) of Section 550 of the Code of Civil Procedure created by the act which added paragraph (5) to this subdivision, and the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code created by the act which added paragraph (6) to this subdivision.

(e) Whenever the Department of Justice acts pursuant to this section as it pertains to firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, its acts or omissions shall be deemed to be discretionary within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

SEC. 6.2. Section 12076 of the Penal Code is amended to read:

12076. (a) The purchaser or transferee of any firearm shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name and affix his or her residence address and date of birth to the register in quadruplicate. The salesperson shall affix his or her signature to the register in quadruplicate as a witness to the signature and identification of the purchaser or transferee. Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the register and any person violating any provision of this section is guilty of a misdemeanor.

(b) Two copies of the original sheet of the register, on the date of sale or transfer, shall be placed in the mail, postage prepaid, and properly addressed to the Department of Justice in Sacramento. The third copy of the original shall be mailed, postage prepaid, to the chief of police, or other head of the police department, of the city or county wherein the sale or transfer is made. Where the sale or transfer is made in a district where there is no municipal police department, the third copy of the original sheet shall be mailed to the sheriff of the county wherein the sale or transfer is made.

The third copy for firearms, other than pistols, revolvers, or other firearms capable of being concealed upon the person shall be destroyed within five days of receipt and no information shall be

compiled therefrom.

(c) The department shall examine its records, as well as those records that it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser or transferee is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

If the department determines that the purchaser or transferee is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, it shall immediately notify the dealer of that fact.

If the department determines that the copies of the register submitted to it pursuant to subdivision (b) contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or transferee or the pistol, revolver, or other firearm to be purchased or transferred, or if any fee required pursuant to subdivision (d) is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to subdivision (d), or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased or transferred, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

(d) The Department of Justice may charge the dealer a fee sufficient to reimburse all of the following:

(1) (A) The department for the cost of furnishing this information. All money received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Special Account of the General Fund, which is hereby created, to be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to this section and Section 12289.

(B) The department for the cost of meeting its obligations under paragraph (2) of subdivision (b) of Section 8100 of the Welfare and Institutions Code.

(2) Local mental health facilities for state-mandated local costs resulting from the reporting requirements imposed by the amendments to Section 8103 of the Welfare and Institutions Code, made by the act which also added this paragraph.

(3) The State Department of Mental Health for the costs resulting from the requirements imposed by the amendments to Section 8104 of the Welfare and Institutions Code made by the act which also added this paragraph.

(4) Local mental hospitals, sanitariums, and institutions for state-mandated local costs resulting from the reporting requirements imposed by Section 8105 of the Welfare and

Institutions Code.

(5) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code.

The fee established pursuant to this subdivision shall not exceed the sum of the actual processing costs of the department, the estimated reasonable costs of the local mental health facilities for complying with the reporting requirements imposed by the act which added paragraph (2) of this subdivision, the costs of the State Department of Mental Health for complying with the requirements imposed by the act which added paragraph (3) to this subdivision, the estimated reasonable costs of local mental hospitals, sanitariums, and institutions for complying with the reporting requirements imposed by the act which added paragraph (4) to this subdivision, and the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code created by the act which added paragraph (5) to this subdivision.

(e) Whenever the Department of Justice acts pursuant to this section as it pertains to firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, its acts or omissions shall be deemed to be discretionary within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

SEC. 6.3. Section 12076 of the Penal Code is amended to read:

12076. (a) The purchaser or transferee of any firearm shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name and affix his or her residence address and date of birth to the register in quadruplicate. The salesperson shall affix his or her signature to the register in quadruplicate as a witness to the signature and identification of the purchaser or transferee. Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the register and any person violating any provision of this section is guilty of a misdemeanor.

(b) Two copies of the original sheet of the register, on the date of sale or transfer, shall be placed in the mail, postage prepaid, and properly addressed to the Department of Justice in Sacramento. The third copy of the original shall be mailed, postage prepaid, to the chief of police, or other head of the police department, of the city or county wherein the sale or transfer is made. Where the sale or transfer is made in a district where there is no municipal police department, the third copy of the original sheet shall be mailed to the sheriff of the county wherein the sale or transfer is made.

The third copy for firearms, other than pistols, revolvers, or other firearms capable of being concealed upon the person shall be destroyed within five days of receipt and no information shall be

compiled therefrom.

(c) The department shall examine its records, as well as those records that it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser or transferee is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

If the department determines that the purchaser or transferee is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, it shall immediately notify the dealer and the chief of the police department of the city or county in which the sale or transfer was made, or if the sale or transfer was made in a district in which there is no municipal police department, the sheriff of the county in which the sale or transfer was made, of that fact.

If the department determines that the copies of the register submitted to it pursuant to subdivision (b) contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or transferee or the pistol, revolver, or other firearm to be purchased or transferred, or if any fee required pursuant to subdivision (d) is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to subdivision (d), or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased or transferred, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

(d) The Department of Justice may charge the dealer a fee sufficient to reimburse all of the following:

(1) (A) The department for the cost of furnishing this information. All money received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Special Account of the General Fund, which is hereby created, to be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to this section.

(B) The department for the cost of meeting its obligations under paragraph (2) of subdivision (b) of Section 8100 of the Welfare and Institutions Code.

(2) Local mental health facilities for state-mandated local costs resulting from the reporting requirements imposed by the amendments to Section 8103 of the Welfare and Institutions Code, made by the act which also added this paragraph.

(3) The State Department of Mental Health for the costs resulting from the requirements imposed by the amendments to Section 8104 of the Welfare and Institutions Code made by the act which also added this paragraph.

(4) Local mental hospitals, sanitariums, and institutions for state-mandated local costs resulting from the reporting requirements imposed by Section 8105 of the Welfare and Institutions Code.

(5) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (b) of Section 550 of the Code of Civil Procedure created by the act which also added this paragraph.

(6) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code.

The fee established pursuant to this subdivision shall not exceed the sum of the actual processing costs of the department, the estimated reasonable costs of the local mental health facilities for complying with the reporting requirements imposed by the act which added paragraph (2) of this subdivision, the costs of the State Department of Mental Health for complying with the requirements imposed by the act which added paragraph (3) to this subdivision, the estimated reasonable costs of local mental hospitals, sanitariums, and institutions for complying with the reporting requirements imposed by the act which added paragraph (4) to this subdivision, the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (b) of Section 550 of the Code of Civil Procedure created by the act which added paragraph (5) to this subdivision, and the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code created by the act which added paragraph (6) to this subdivision.

(e) Whenever the Department of Justice acts pursuant to this section as it pertains to firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, its acts or omissions shall be deemed to be discretionary within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

SEC. 6.5. Section 12077 of the Penal Code, as amended by Chapter 1090 of the Statutes of 1990, is amended to read:

12077. (a) (1) The Department of Justice shall prescribe the form of the register described in Section 12074. There shall be two forms of the register with the format set forth in paragraph (2) of this subdivision for pistols, revolvers, and other firearms capable of being concealed upon the person and the format set forth in paragraph (3) of this subdivision for all firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person.

(2) For pistols, revolvers, and other firearms capable of being concealed upon the person, information contained in the register shall be the date and time of sale, make of firearm, peace officer exemption status pursuant to subdivision (a) of Section 12078 and the agency name, manufacturer's name if stamped on the firearm, model

name or number, if stamped on the firearm, if applicable, serial number, other number (if more than one serial number is stamped on the firearm), caliber, type of firearm, if the firearm is new or used, barrel length, color of the firearm, full name of purchaser, purchaser's complete date of birth, purchaser's local address, if current address is temporary, complete permanent address of purchaser, identification of purchaser, purchaser's place of birth (state or country), purchaser's complete telephone number, purchaser's occupation, purchaser's sex, purchaser's physical description, all legal names and aliases ever used by the purchaser, yes or no answer to questions that prohibit purchase including, but not limited to, conviction of a felony as described in Section 12021 or an offense described in Section 12021.1, the purchaser's status as a person described in Section 8100 of the Welfare and Institutions Code, whether the purchaser is a person who has been adjudicated by a court to be a danger to others or found not guilty by reason of insanity, whether the purchaser is a person who has been found incompetent to stand trial or placed under conservatorship by a court pursuant to Section 8103 of the Welfare and Institutions Code, signature of purchaser, signature of salesperson (as a witness to the purchaser's signature), name and complete address of the dealer or firm selling the firearm as shown on the dealer's license, the establishment number, if assigned, the dealer's complete business telephone number, and a statement that any person signing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the register is guilty of a misdemeanor.

(3) For firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, information contained in the register shall be the date and time of sale, peace officer exemption status pursuant to subdivision (a) of Section 12078 and the agency name, full name of purchaser, purchaser's complete date of birth, purchaser's local address, if current address is temporary, complete permanent address of purchaser, identification of purchaser, purchaser's place of birth (state or country), purchaser's complete telephone number, purchaser's occupation, purchaser's sex, purchaser's physical description, all legal names and aliases ever used by the purchaser, yes or no answer to questions that prohibit purchase, including, but not limited to, conviction of a felony as described in Section 12021 or an offense described in Section 12021.1, the purchaser's status as a person described in Section 8100 of the Welfare and Institutions Code, whether the purchaser is a person who has been adjudicated by a court to be a danger to others or found not guilty by reason of insanity, whether the purchaser is a person who has been found incompetent to stand trial or placed under conservatorship by a court pursuant to Section 8103 of the Welfare and Institutions Code, signature of purchaser, signature of salesperson (as a witness to the purchaser's signature), name and complete address of the dealer or firm selling the firearm as shown

on the dealer's license, the establishment number, if assigned, the dealer's complete business telephone number, and a statement that any person signing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the register is guilty of a misdemeanor.

(b) (1) The original of each dealer's record of sale of a firearm document shall be retained by the dealer in consecutive order. Each book of 50 originals shall become the permanent register of transactions that shall be retained for not less than three years from the date of last transaction and shall be provided for the inspection of any peace officer, Department of Justice employee designated by the Attorney General or agents of the federal Bureau of Alcohol, Tobacco, and Firearms upon the presentation of proper identification.

(2) Dealers shall use ink to complete each document.

(3) The dealer or salesperson making a sale shall ensure that all information is provided legibly. The dealer and salespersons shall be informed that incomplete or illegible information will delay sales.

(4) Each original shall contain instructions regarding the procedure for completion of the form and routing of the form. Dealers shall comply with these instructions which shall include the information set forth in this subdivision.

(5) One firearm transaction shall be reported on each record of sale document.

(c) As used in this section, the following definitions shall control:

(1) "Purchaser" means the purchaser or transferee of a firearm.

(2) "Purchase" means the purchase or transfer of a firearm.

SEC. 7. Section 12078 of the Penal Code is amended to read:

12078. (a) The preceding provisions of this article do not apply to deliveries, transfers, or sales of firearms made to persons properly identified as full-time paid peace officers, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, provided that the peace officers are authorized by their employer to carry firearms while in the performance of their duties, nor to deliveries, transfers, or sales of firearms made to authorized representatives of cities, cities and counties, counties, state or federal governments for use by those governmental agencies. Proper identification is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the purchaser or transferee as a peace officer who is authorized to carry firearms while in the performance of his or her duties, and authorizing the purchase or transfer. The certification shall be delivered to the seller or transferor at the time of purchase or transfer and the purchaser or transferee shall identify himself or herself as the person authorized in the certification. On the day the sale, delivery, or transfer is made, where a peace officer is receiving the firearm, and either a dealer is not the seller or transferor, or is not otherwise the person responsible for the delivery of the firearm, or the transfer or sale is not conducted

through a law enforcement agency pursuant to Section 12084, the peace officer shall forward by prepaid mail to the Department of Justice a report of the same and the type of information concerning the seller or transferor, the buyer or transferee, and the firearm as is indicated in Section 12077. On the day the sale, delivery, or transfer is made, where a dealer is the seller, transferor, or otherwise responsible for delivery of the firearm, the dealer shall forward by prepaid mail to the Department of Justice a report of the same and the type of information concerning the buyer or transferee and the firearm as is indicated in Section 12077. On the day the sale, delivery, or transfer is made, where the transfer is conducted pursuant to Section 12084, the law enforcement agency shall forward by prepaid mail to the Department of Justice a report of the same and the type of information concerning the buyer or transferee and the firearm as is indicated in Section 12084. The reports which peace officers shall complete shall be provided to them by the department at cost. All receipts from the sale of these forms shall be deposited into the Dealers' Record of Sale Special Account of the General Fund. No report need be submitted to the Department of Justice where a peace officer receiving the firearm received it from his or her employer in accordance with the applicable rules, regulations, or procedures of the employer.

(b) Section 12070 and subdivisions (c) and (d) of Section 12072 shall not apply to deliveries, sales, or transfers of firearms between or to importers and manufacturers of firearms licensed to engage in such business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(c) Subdivision (d) of Section 12072 shall not apply to the infrequent transfers of firearms by gift, bequest, intestate succession, or other means by one individual to another where both individuals are members of the same immediate family.

As used in this subdivision, immediate family member includes the third lineal degree of consanguinity.

(d) Subdivision (d) of Section 12072 shall not apply to the infrequent loan of firearms between persons who are personally known to each other for any lawful purpose, if the loan does not exceed 30 days in duration.

(e) Section 12071 and subdivisions (c) and (d) of Section 12072 shall not apply to the delivery of a firearm to a gunsmith for service or repair.

(f) Section 12070 shall not apply to the sale, delivery, or transfer of firearms by manufacturers or importers licensed pursuant to Chapter 44 (commencing with Section 921) of Chapter 18 of the United States Code and the regulations issued pursuant thereto to dealers licensed pursuant to Section 12071.

(g) Subdivision (d) of Section 12072 shall not apply to the infrequent sale or transfer of a firearm, other than pistols, revolvers, or other firearms capable of being concealed upon the person, at

auctions or similar events conducted by nonprofit mutual or public benefit corporations organized pursuant to the Corporations Code.

(h) Section 12070 and subdivision (d) of Section 12072 shall not apply to the loan of a firearm for the purposes of shooting at targets if the loan occurs on the premises of a target facility which holds a business or regulatory license or on the premises of any club or organization organized for the purposes of practicing shooting at targets upon established ranges, whether public or private, if the firearm is at all times kept within the premises of the target range or on the premises of the club or organization.

SEC. 8. Section 12084 is added to the Penal Code, to read:

12084. (a) As used in this section, the following definitions shall control:

(1) "Agency" means a sheriff's department in a county of less than 200,000 persons, according to the most recent federal decennial census which elects to process purchases, sales, or transfers of firearms.

(2) "Seller" means the seller or transferor of a firearm.

(3) "Purchaser" means the purchaser or transferee of a firearm.

(4) "Purchase" means the purchase, sale, or transfer of a firearm.

(5) "Department" means the Department of Justice.

(6) "LEFT" means the Law Enforcement Firearms Transfer Form consisting of the transfer form utilized to purchase a firearm in accordance with this section.

(b) As an alternative to completing the sale or transfer of a firearm through a licensed dealer pursuant to Section 12082 in order to comply with subdivision (d) of Section 12072, the parties to the purchase of a firearm may complete the transaction through an agency in accordance with this section in order to comply with subdivision (d) of Section 12072.

(c) (1) LEFTs shall be prepared by the State Printer and shall be furnished to agencies on application at a cost to be determined by the Department of General Services for each 100 leaves in quintuplicate, one original and four duplicates for the making of carbon copies. The original and duplicate copies shall differ in color, and shall be in the form provided by this section. The State Printer, upon issuing the LEFT, shall forward to the department the name and address of the agency together with the series and sheet numbers on the LEFT. The LEFT shall not be transferable.

(2) The department shall prescribe the form of the LEFT. It shall be in the same exact format set forth in Sections 12077 and 12082, with the same distinct formats for firearms that are pistols, revolvers, and other firearms capable of being concealed upon the person and for firearms that are not pistols, revolvers, and other firearms capable of being concealed upon the person, except that instead of the listing of information concerning a dealer, the LEFT shall contain the name, telephone number, and address of the law enforcement agency.

(3) The original of each LEFT shall be retained in consecutive

order. Each book of 50 originals shall become the permanent record of transactions that shall be retained not less than three years from the date of the last transaction and shall be provided for the inspection of any peace officer, department employee designated by the Attorney General, or agents of the federal Bureau of Alcohol, Tobacco and Firearms upon the presentation of proper identification.

(4) Ink shall be used to complete each LEFT. The agency shall ensure that all information is provided legibly. The purchaser and seller shall be informed that incomplete or illegible information delays purchases.

(5) Each original LEFT shall contain instructions regarding the procedure for completion of the form and the routing of the form. The agency shall comply with these instructions which shall include the information set forth in this subdivision.

(6) One firearm transaction shall be reported on each LEFT.

(d) The following procedures shall be followed in processing the purchase:

(1) Without waiting for the conclusion of any waiting period to elapse, the seller shall immediately deliver the firearm to the agency solely to complete the LEFT. Upon completion of the LEFT, the firearm shall be immediately returned by the agency to the seller without waiting for the waiting period to elapse.

(2) The purchaser shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the agency. The agency shall require the purchaser to complete the original and one copy of the LEFT. An employee of the agency shall then affix his or her signature as a witness to the signature and identification of the purchaser.

(3) Two copies of the LEFT shall, on that date of purchase, be placed in the mail, postage prepaid to the department at Sacramento. The third copy shall be provided to the purchaser and the fourth copy to the seller.

(4) The department shall examine its records, as well as those records that it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(5) If the department determines that the copies of the LEFT submitted to it pursuant to paragraph (3) contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or the firearm to be purchased, or if any fee required pursuant to paragraph (6) is not submitted by the agency in conjunction with submission of the copies of the LEFT, or if the department determines that the person is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, it shall immediately notify the agency of that fact. Upon notification by the department, the purchaser shall

submit any fee required pursuant to paragraph (6), as appropriate, and if notification by the department is received by the agency at any time prior to delivery of the firearm, the delivery of the firearm shall be withheld until the conclusion of the waiting period described in paragraph (7).

(6) The department and the agency may both charge a fee not to exceed the actual cost of processing the purchaser sufficient to reimburse both of the following:

(A) The agency for processing the transfer.

(B) The department for providing the information. The department shall charge the same fee as it would charge a dealer pursuant to Section 12082. All sums received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Special Account of the General Fund.

(7) The firearm shall not be delivered to the purchaser as follows:

(A) Prior to January 1, 1996, within 15 days of application for the purchase or, after notice by the department pursuant to paragraph (5), within 15 days of the submission to the department of any fees required pursuant to this subdivision, or within 15 days of a corrected LEFT, whichever is later. On or after January 1, 1996, within 15 days of the application for the purchase of a pistol, revolver, or other firearm capable of being concealed upon the person, or after notice by the department pursuant to paragraph (5), within 15 days of the submission to the department of any fees required pursuant to this subdivision, or within 15 days of the submission to the department of corrected copies of the LEFT, whichever is later. On or after January 1, 1996, within 10 days of the application for purchase of a firearm other than a pistol, revolver, or other firearm capable of being concealed upon the person, or after notice by the department pursuant to paragraph (5), or within 10 days of submission to the department of any fees required pursuant to this subdivision, or within 10 days of the submission to the department of corrected copies of the LEFT, whichever is later.

(B) Unless unloaded.

(C) In the case of a pistol, revolver, or other firearm capable of being concealed upon the person, unless securely wrapped or in a locked container.

(D) Unless the purchaser presents clear evidence of his or her identity and age to the agency.

(E) Whenever the agency is notified by the department that the person is in a prohibited class described in Section 12021 or 12021.1 or Section 8100 or 8103 of the Welfare and Institutions Code.

(F) Unless done at the agency's premises.

(e) The action of a law enforcement agency acting pursuant to Section 12084 shall be deemed to be a discretionary act within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

(f) Whenever the Department of Justice acts pursuant to this section as it pertains to firearms other than pistols, revolvers, or other

firearms capable of being concealed upon the person, its acts or omissions shall be deemed to be discretionary within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

(g) Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the LEFT is guilty of a misdemeanor.

SEC. 8.1. Section 12084 is added to the Penal Code, to read:

12084. (a) As used in this section, the following definitions shall control:

(1) "Agency" means a sheriff's department in a county of less than 200,000 persons, according to the most recent federal decennial census which elects to process purchases, sales, or transfers of firearms.

(2) "Seller" means the seller or transferor of a firearm.

(3) "Purchaser" means the purchaser or transferee of a firearm.

(4) "Purchase" means the purchase, sale, or transfer of a firearm.

(5) "Department" means the Department of Justice.

(6) "LEFT" means the Law Enforcement Firearms Transfer Form consisting of the transfer form utilized to purchase a firearm in accordance with this section.

(b) As an alternative to completing the sale or transfer of a firearm through a licensed dealer pursuant to Section 12082 in order to comply with the provisions of subdivision (d) of Section 12072, the parties to the purchase of a firearm may complete the transaction through an agency in accordance with this section in order to comply with the provisions of subdivision (d) of Section 12072.

(c) (1) LEFTs shall be prepared by the State Printer and shall be furnished to agencies on application at a cost to be determined by the Department of General Services for each 100 leaves in quintuplicate, one original and four duplicates for the making of carbon copies. The original and duplicate copies shall differ in color, and shall be in the form provided by this section. The State Printer, upon issuing the LEFT, shall forward to the department the name and address of the agency together with the series and sheet numbers on the LEFT. The LEFT shall not be transferable.

(2) The department shall prescribe the form of the LEFT. It shall be in the same exact format set forth in Sections 12077 and 12082, with the same distinct formats for firearms that are pistols, revolvers, and other firearms capable of being concealed upon the person and for firearms that are not pistols, revolvers, and other firearms capable of being concealed upon the person, except that instead of the listing of information concerning a dealer, the LEFT shall contain the name, telephone number, and address of the law enforcement agency.

(3) The original of each LEFT shall be retained in consecutive order. Each book of 50 originals shall become the permanent record of transactions that shall be retained not less than three years from

the date of the last transaction and shall be provided for the inspection of any peace officer, department employee designated by the Attorney General, or agents of the federal Bureau of Alcohol, Tobacco and Firearms upon the presentation of proper identification.

(4) Ink shall be used to complete each LEFT. The agency shall ensure that all information is provided legibly. The purchaser and seller shall be informed that incomplete or illegible information delays purchases.

(5) Each original LEFT shall contain instructions regarding the procedure for completion of the form and the routing of the form. The agency shall comply with these instructions which shall include the information set forth in this subdivision.

(6) One firearm transaction shall be reported on each LEFT.

(d) The following procedures shall be followed in processing the purchase:

(1) Without waiting for the conclusion of any waiting period to elapse, the seller shall immediately deliver the firearm to the agency solely to complete the LEFT. Upon completion of the LEFT, the firearm shall be immediately returned by the agency to the seller without waiting for the waiting period to elapse.

(2) The purchaser shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the agency. The agency shall require the purchaser to complete the original and one copy of the LEFT. An employee of the agency shall then affix his or her signature as a witness to the signature and identification of the purchaser.

(3) Two copies of the LEFT shall, on that date of purchase, be placed in the mail, postage prepaid to the department at Sacramento. The third copy shall be provided to the purchaser and the fourth copy to the seller.

(4) The department shall examine its records, as well as those records that it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(5) If the department determines that the copies of the LEFT submitted to it pursuant to paragraph (3) contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or the firearm to be purchased, or if any fee required pursuant to paragraph (6) is not submitted by the agency in conjunction with submission of the copies of the LEFT, or if the department determines that the person is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, it shall immediately notify the agency of that fact. Upon notification by the department, the purchaser shall submit any fee required pursuant to paragraph (6), as appropriate, and if notification by the department is received by the agency at any

time prior to delivery of the firearm, the delivery of the firearm shall be withheld until the conclusion of the waiting period described in paragraph (7).

(6) The department and the agency may both charge a fee not to exceed the actual cost of processing the purchaser sufficient to reimburse both of the following:

(A) The agency for processing the transfer.

(B) The department for providing the information. The department shall charge the same fee as it would charge a dealer pursuant to Section 12082. All sums received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Special Account of the General Fund.

(7) The firearm shall not be delivered to the purchaser as follows:

(A) Prior to January 1, 1996, within 15 days of application for the purchase or, after notice by the department pursuant to paragraph (5), within 15 days of the submission to the department of any fees required pursuant to this subdivision, or within 15 days of a corrected LEFT, whichever is later. On or after January 1, 1996, within 15 days of the application for the purchase of a pistol, revolver, or other firearm capable of being concealed upon the person, or after notice by the department pursuant to paragraph (5), within 15 days of the submission to the department of any fees required pursuant to this subdivision, or within 15 days of the submission to the department of corrected copies of the LEFT, whichever is later. On or after January 1, 1996, within 10 days of the application for purchase of a firearm other than a pistol, revolver, or other firearm capable of being concealed upon the person, or after notice by the department pursuant to paragraph (5), or within 10 days of submission to the department of any fees required pursuant to this subdivision, or within 10 days of the submission to the department of corrected copies of the LEFT, whichever is later.

(B) Unless unloaded.

(C) In the case of a pistol, revolver, or other firearm capable of being concealed upon the person, unless securely wrapped or in a locked container.

(D) Unless the purchaser presents clear evidence of his or her identity and age to the agency.

(E) Whenever the agency is notified by the department that the person is in a prohibited class described in Section 12021 or 12021.1 or Section 8100 or 8103 of the Welfare and Institutions Code.

(F) Unless done at the agency's premises.

(G) In the case of a pistol, revolver, or other firearm capable of being concealed upon the person, commencing July 1, 1993, unless the purchaser presents to the seller a basic firearm safety certificate.

(e) The action of a law enforcement agency acting pursuant to Section 12084 shall be deemed to be a discretionary act within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

(f) Whenever the Department of Justice acts pursuant to this

section as it pertains to firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, its acts or omissions shall be deemed to be discretionary within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

(g) Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the LEFT is guilty of a misdemeanor.

SEC. 9. Section 8100 of the Welfare and Institutions Code, as amended by Chapter 1090 of the Statutes of 1990, is amended to read:

8100. (a) A person shall not have in his or her possession or under his or her custody or control, or purchase or receive, or attempt to purchase or receive, any firearms whatsoever or any other deadly weapon, if on or after January 1, 1992, he or she has been admitted to a facility and is receiving inpatient treatment and, in the opinion of the attending health professional who is primarily responsible for the patient's treatment of a mental disorder, is a danger to self or others, as specified by Section 5150, 5250, or 5300, even though the patient has consented to that treatment. A person is not subject to this subdivision once he or she is discharged from the facility.

(b) (1) A person shall not have in his or her possession or under his or her custody or control, or purchase or receive, or attempt to purchase or receive, any firearms whatsoever or any other deadly weapon for a period of six months whenever, on or after January 1, 1992, he or she communicates to a licensed psychotherapist, as defined in subdivisions (a) to (e), inclusive, of Section 1010 of the Evidence Code, a serious threat of physical violence against a reasonably identifiable victim or victims. The six-month period shall commence from the date that the licensed psychotherapist reports to the local law enforcement agency the identity of the person making the communication. The prohibition provided for in this subdivision shall not apply unless the licensed psychotherapist notifies a local law enforcement agency of the threat by that person. The person, however, may own, possess, have custody or control over, or receive or purchase any firearm if a superior court, pursuant to paragraph (3) and upon petition of the person, has found, by a preponderance of the evidence, that the person is likely to use firearms or other deadly weapons in a safe and lawful manner.

(2) Upon receipt of the report from the local law enforcement agency pursuant to subdivision (c) of Section 8105, the Department of Justice shall notify by certified mail, return receipt requested, a person subject to this subdivision of the following:

(A) That he or she is prohibited from possessing, having custody or control over, receiving, or purchasing any firearm or other deadly weapon for a period of six months commencing from the date that the licensed psychotherapist reports to the local law enforcement agency the identity of the person making the communication. The

notice shall state the date when the prohibition commences and ends.

(B) That he or she may petition a court, as provided in this subdivision, for an order permitting the person to own, possess, control, receive, or purchase a firearm.

(3) Any person who is subject to paragraph (1) may petition the superior court of his or her county of residence for an order that he or she may own, possess, have custody or control over, receive, or purchase firearms. At the time the petition is filed, the clerk of the court shall set a hearing date and notify the person, the Department of Justice, and the district attorney. The people of the State of California shall be the respondent in the proceeding and shall be represented by the district attorney. Upon motion of the district attorney, or upon its own motion, the superior court may transfer the petition to the county in which the person resided at the time of the statements, or the county in which the person made the statements. Within seven days after receiving notice of the petition, the Department of Justice shall file copies of the reports described in Section 8105 with the superior court. The reports shall be disclosed upon request to the person and to the district attorney. The district attorney shall be entitled to a continuance of the hearing to a date of not less than 14 days after the district attorney is notified of the hearing date by the clerk of the court. Notwithstanding any other provision of law, declarations, police reports, including criminal history information, and any other material and relevant evidence that is not excluded under Section 352 of the Evidence Code, shall be admissible at the hearing under this paragraph. If the court finds by a preponderance of the evidence that the person would be likely to use firearms in a safe and lawful manner, the court shall order that the person may have custody or control over, receive, possess, or purchase firearms. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the department shall delete any reference to the prohibition against firearms from the person's state summary criminal history information.

(c) "Discharge," for the purposes of this section, does not include a leave of absence from a facility.

(d) "Attending health care professional," as used in this section, means the licensed health care professional primarily responsible for the person's treatment who is qualified to make the decision that the person has a mental disorder and has probable cause to believe that the person is a danger to self or others.

(e) "Deadly weapon," as used in this section and in Sections 8101, 8102, and 8103, means any weapon, the possession or concealed carrying of which is prohibited by Section 12020 of the Penal Code.

(f) "Danger to self," as used in subdivision (a), means a voluntary person who has made a serious threat of, or attempted, suicide with the use of a firearm or other deadly weapon.

(g) A violation of subdivision (a) of, or paragraph (1) of subdivision (b) of, this section shall be a public offense, punishable

by imprisonment in the state prison, or in a county jail for not more than one year, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(h) The prohibitions set forth in this section shall be in addition to those set forth in Section 8103.

SEC. 10. Section 8105 of the Welfare and Institutions Code is amended to read:

8105. (a) The Department of Justice shall request each public and private mental hospital, sanitarium, and institution to submit to the department that information which the department deems necessary to identify those persons who are within the provisions of subdivision (a) of Section 8100, in order to carry out its duties in relation to firearms, destructive devices, and explosives.

(b) Upon request of the Department of Justice pursuant to subdivision (a), each public and private mental hospital, sanitarium, and institution shall submit to the department that information which the department deems necessary to identify those persons who are within the provisions of subdivision (a) of Section 8100, in order to carry out its duties in relation to firearms, destructive devices, and explosives.

(c) A licensed psychotherapist shall immediately report to a local law enforcement agency the identity of a person subject to subdivision (b) of Section 8100. Upon receipt of the report, the local law enforcement agency, on a form prescribed by the Department of Justice, shall immediately notify the department of the person who is subject to subdivision (b) of Section 8100.

(d) (1) Except as provided in paragraph (2), all information provided to the Department of Justice pursuant to this section shall be kept confidential, separate, and apart from all other records maintained by the department, and shall be used by the department only to determine eligibility to acquire, carry, and possess firearms, destructive devices, and explosives.

(2) Except for purposes of the court proceedings described in subdivision (b) of Section 8100 and for determining the eligibility of the person to acquire, carry, and possess firearms, destructive devices, and explosives, all information provided to the Department of Justice pursuant to this subdivision shall be kept confidential, separate, and apart from all other records maintained by the department. The information shall be used solely for the purposes of the court proceedings described in subdivision (b) of Section 8100 and by the department only to determine the eligibility of persons to acquire, carry, and possess firearms, destructive devices, and explosives.

(e) Reports shall not be required or requested under this section where the same person has been previously reported pursuant to Section 8103 or 8104.

SEC. 11. Section 8108 is added to the Welfare and Institutions Code, to read:

8108. Mental hospitals, health facilities, or other institutions, or

treating health professionals or psychotherapists who provide reports subject to this chapter shall be civilly immune for making any report required or authorized by this chapter. This section is declaratory of existing law.

SEC. 12. Section 2 of Chapter 1180 of the Statutes of 1988 is amended to read:

Sec. 2. The Legislature declares the following to be the public policy of this state:

(a) No person who buys or is transferred a firearm that was conducted through a person acting under Section 12082 or 12084 of the Penal Code shall incur any civil liability for any illicit use or possession of the firearm prior to his or her taking possession of the firearm if the person had no knowledge of that conduct.

(b) No person holding a license under Section 12071 of the Penal Code when transferring firearms pursuant to Section 12082 of the Penal Code shall assume any civil liability beyond that existing at the time of the effective date of this section when the person sells or transfers any firearms out of his or her own stock, if that person otherwise complies with Section 12082 of the Penal Code. No person acting as a dealer pursuant to Section 12071 of the Penal Code who is transferring firearms for third parties pursuant to Section 12082 of the Penal Code and which firearms are not out of his or her own stock shall assume any civil liability for any defects in those firearms unless he or she has actual knowledge of the defect.

(c) No person who transfers a firearm through a dealer licensed pursuant to Section 12071 of the Penal Code in accordance with Section 12082 of the Penal Code, or through a local law enforcement agency pursuant to Section 12084 of the Penal Code, and otherwise complies with Article 3 (commencing with Section 12070) of Chapter 1 of Title 2 of Part 4 of the Penal Code shall incur any civil liability for subsequent misuse of the firearm by the transferee of that firearm if he or she had no knowledge of the misuse prior to the transfer.

(d) The declarations contained in this section are declaratory of existing law.

SEC. 12.1. (a) Section 4.1 of this bill incorporates amendments to Section 12072 of the Penal Code proposed by both this bill and AB 618. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2) each bill amends Section 12072 of the Penal Code, and (3) this bill is enacted after AB 618, in which case Section 4 of this bill shall not become operative.

SEC. 12.2. (a) Section 6.1 of this bill incorporates amendments to Section 12076 of the Penal Code proposed by both this bill and AB 108. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2) each bill amends Section 12076 of the Penal Code, (3) SB 263 is not enacted or as enacted does not amend that section and (4) this bill is enacted after AB 108, in which case Section 12076 of the Penal Code, as amended by AB 108, shall remain operative only until the operative date of this

bill, at which time Section 6.1 of this bill shall become operative and Sections 6, 6.2, and 6.3 of this bill shall not become operative.

(b) Section 6.2 of this bill incorporates amendments to Section 12076 of the Penal Code proposed by both this bill and SB 263. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2) each bill amends Section 12076 of the Penal Code, (3) AB 108 is not enacted or as enacted does not amend that section and (4) this bill is enacted after SB 263, in which case Section 12076 of the Penal Code, as amended by SB 263, shall remain operative only until the operative date of this bill, at which time Section 6.2 of this bill shall become operative and Sections 6, 6.1, and 6.3 of this bill shall not become operative.

(c) Section 6.3 of this bill incorporates amendments to Section 12076 of the Penal Code proposed by this bill, AB 108, and SB 263. It shall only become effective if (1) all three bills are enacted and become operative on or before January 1, 1992, (2) each bill amends Section 12076 of the Penal Code, and (3) this bill is enacted after AB 108 and SB 263, in which case Section 12076 of the Penal Code, as amended by AB 108 or SB 263, whichever chapter has the higher number, shall remain operative only until the operative date of this bill, at which time Section 6.3 of this bill shall become operative and Sections 6, 6.1, and 6.2 of this bill shall not become operative.

SEC. 12.3. Section 8.1 of this bill shall become operative only if AB 618 is enacted, in which case Section 8 of this bill shall not become operative.

SEC. 13. If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 14. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 952

An act to amend Sections 12027, 12027.1, 12031, and 12280 of the Penal Code, to amend Section 8100 of the Welfare and Institutions Code, and to amend Section 11 of Chapter 177 of the Statutes of 1990, relating to weapons.

[Approved by Governor October 13, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 12027 of the Penal Code is amended to read:

12027. Section 12025 does not apply to, or affect, any of the following:

(a) (1) (A) Any peace officer, listed in Section 830.1 or 830.2, whether active or honorably retired, other duly appointed peace officers, honorably retired peace officers listed in subdivision (c) of Section 830.5, full-time paid peace officers of other states and the federal government who are carrying out official duties while in California, or any person summoned by any of these officers to assist in making arrests or preserving the peace while he or she is actually engaged in assisting that officer. Any peace officer described in this paragraph who has been honorably retired shall be issued an identification certificate by the agency from which the officer has retired. The issuing agency may charge a fee necessary to cover any reasonable expenses incurred by the agency in issuing certificates pursuant to this subdivision.

(B) Any officer retired after January 1, 1981, shall have an endorsement on the identification stating that the issuing agency approves the officer's carrying of a concealed firearm.

(C) No endorsement or renewal endorsement issued pursuant to paragraph (2) shall be effective unless it is in the format set forth in subparagraph (D), except that any peace officer listed in subdivision (f) of Section 830.2 or in subdivision (c) of Section 830.5, who is retired between January 2, 1981, and on or before December 31, 1988, and who is authorized to carry a concealed firearm pursuant to this section, shall not be required to have an endorsement in the format set forth in subparagraph (D) until the time of the issuance, on or after January 1, 1989, of a renewal endorsement pursuant to paragraph (2).

(D) A certificate issued pursuant to this paragraph for persons retiring after January 1, 1981, shall be in the following format: it shall be on a 2x3 inch card, bear the photograph of the retiree, the retiree's name, address, date of birth, the date that the retiree retired, name and address of the agency from which the retiree retired, have stamped on it the endorsement "CCW Approved" and the date the endorsement is to be renewed.

(E) For purposes of this section and Section 12031, "CCW" means

"carry concealed weapons."

(2) A retired peace officer who retired after January 1, 1981, shall petition the issuing agency for the renewal of his or her privilege to carry a concealed firearm every five years. An honorably retired peace officer, described in paragraph (1), retired prior to January 1, 1981, shall not be required to obtain an endorsement from the issuing agency to carry a concealed firearm. The agency from which a peace officer is honorably retired may, upon initial retirement of that peace officer, or at any time subsequent thereto, deny or revoke, for good cause the retired officer's privilege to carry a concealed firearm.

(3) An honorably retired peace officer listed in subdivision (c) of Section 830.5 authorized to carry concealed firearms by this subdivision shall meet the training requirements of Section 832 and shall qualify with the firearm at least annually. The individual retired peace officer shall be responsible for maintaining his or her eligibility to carry a concealed firearm. The Department of Justice shall provide subsequent arrest notification pursuant to Section 11105.2 regarding honorably retired peace officers listed in subdivision (c) of Section 830.5 to the agency from which the officer has retired.

(b) The possession or transportation of unloaded firearms as merchandise by a person engaged in the business of manufacturing, repairing, or dealing in firearms who is licensed to engage in that business or the authorized representative or authorized agent of that person while engaged in the lawful course of the business.

(c) Members of the Army, Navy, or Marine Corps of the United States, or the National Guard, when on duty, or organizations which are by law authorized to purchase or receive those weapons from the United States or this state.

(d) Duly authorized military or civil organizations while parading, or the members thereof when going to and from the places of meeting of their respective organizations.

(e) Guards or messengers of common carriers, banks, and other financial institutions while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state.

(f) Members of any club or organization organized for the purpose of practicing shooting at targets upon established target ranges, whether public or private, while the members are using pistols, revolvers, or other firearms capable of being concealed upon the person upon the target ranges, or while going to and from the ranges.

(g) Licensed hunters or fishermen while engaged in hunting or fishing, or while going to or returning from the hunting or fishing expedition.

(h) Transportation of unloaded firearms by a person operating a licensed common carrier or an authorized agent or employee thereof when transported in conformance with applicable federal law.

(i) Upon approval of the sheriff of the county in which they reside, honorably retired federal officers or agents of federal law

enforcement agencies including, but not limited to, the Federal Bureau of Investigation, the Secret Service, the United States Customs Service, the Federal Bureau of Alcohol, Tobacco, and Firearms, the Federal Bureau of Narcotics, the Drug Enforcement Administration, the United States Border Patrol, and officers or agents of the Internal Revenue Service who were authorized to carry weapons while on duty, who were assigned to duty within the state for a period of not less than one year, or who retired from active service in the state.

Retired federal officers or agents shall provide the sheriff with certification from the agency from which they retired certifying their service in the state, the nature of their retirement, and indicating the agency's concurrence that the retired federal officer or agent should be accorded the privilege of carrying a concealed firearm.

Upon that approval, the sheriff shall issue a permit to the retired federal officer or agent indicating that he or she may carry a concealed firearm in accordance with this subdivision. The permit shall be valid for a period not exceeding five years, shall be carried by the retiree while carrying a concealed firearm, and may be revoked for good cause.

The sheriff of the county in which the retired federal officer or agent resides may require recertification prior to a permit renewal, and may suspend the privilege for cause. The sheriff may charge a fee necessary to cover any reasonable expenses incurred by the county.

SEC. 2. Section 12027.1 of the Penal Code is amended to read:

12027.1. (a) (1) As specified in subdivision (a) of Section 12027, any peace officer employed by a local agency and listed in Section 830.1 of the Penal Code, retired after January 1, 1981, shall have an endorsement on the identification certificate stating that the issuing agency approves the officer's carrying of a concealed firearm.

(2) A retired peace officer may have his or her privilege to carry a concealed firearm revoked or denied by violating any departmental rule, or state or federal law that, if violated by an officer on active duty, would result in that officer's arrest, suspension, or removal from the agency.

(b) (1) An endorsement may be revoked or denied by the issuing agency only upon a showing of good cause. Good cause shall be determined at a hearing, as specified in subdivision (d).

(2) An endorsement may be revoked only after a hearing, as specified in subdivision (d). Any retired peace officer whose endorsement is to be revoked shall have 15 days to respond to a notice of that hearing, pursuant to this paragraph, as specified in subdivision (d). A retired peace officer who fails to respond to the notice of the hearing, pursuant to this paragraph, shall forfeit his or her right to respond.

(3) An endorsement may be denied prior to the hearing, as specified in subdivision (d). If a hearing is not conducted prior to the

denial of an endorsement, a retired peace officer, within 15 days of the denial, shall have the right to request a hearing. A retired peace officer who fails to request a hearing pursuant to this paragraph shall forfeit his or her right to the hearing.

(c) A retired peace officer, when notified of the revocation of his or her privilege to carry a concealed firearm, after the hearing, or upon forfeiting his or her right to a hearing, shall immediately surrender to the issuing agency his or her identification certificate. The issuing agency shall reissue a new identification without an endorsement.

(d) Any hearing conducted under this section shall be held before a three-member hearing board. One member of the board shall be selected by the local agency and one member shall be selected by the retired peace officer or his or her employee organization. The third member shall be selected jointly by the local agency and the retired peace officer or his or her employee organization.

Any decision by the board shall be binding on the local agency and the retired peace officer.

(e) No peace officer who is retired after January 1, 1989, because of a psychological disability shall be issued an endorsement to carry a concealed firearm pursuant to this section.

SEC. 3. Section 12031 of the Penal Code is amended to read:

12031. (a) (1) Except as provided in subdivision (b), (c), or (d), every person who carries a loaded firearm on his or her person or in a vehicle while in any public place or on any public street in an incorporated city or in any public place or on any public street in a prohibited area of unincorporated territory is guilty of a misdemeanor.

(2) (A) Every person convicted under this section who has previously been convicted of an offense enumerated in Section 12001.6, or of any crime made punishable under this chapter, shall serve a term of at least three months in a county jail, or, if granted probation, or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned for a period of at least three months.

(B) The court shall apply the three-month minimum sentence except in unusual cases where the interests of justice would best be served by granting probation or suspending the imposition or execution of sentence without the minimum imprisonment required in this subdivision or by granting probation or suspending the imposition or execution of sentence with conditions other than those set forth in this subdivision, in which case, the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

(b) Subdivision (a) shall not apply to any of the following:

(1) Peace officers listed in Section 830.1 or 830.2, whether active or honorably retired, other duly appointed peace officers, honorably retired peace officers listed in subdivision (c) of Section 830.5,

full-time paid peace officers of other states and the federal government who are carrying out official duties while in California, or any person summoned by any of those officers to assist in making arrests or preserving the peace while the person is actually engaged in assisting that officer. Any peace officer described in this paragraph who has been honorably retired shall be issued an identification certificate by the agency from which the officer has retired. The issuing agency may charge a fee necessary to cover any reasonable expenses incurred by the agency in issuing certificates pursuant to this paragraph and paragraph (3).

Any officer retired after January 1, 1981, shall have an endorsement on the identification certificate stating that the issuing agency approves the officer's carrying of a loaded firearm.

No endorsement or renewal endorsement issued pursuant to paragraph (2) shall be effective unless it is in the format set forth in subparagraph (D) of paragraph (1) of subdivision (a) of Section 12027, except that any peace officer listed in subdivision (f) of Section 830.2 or in subdivision (c) of Section 830.5, who is retired between January 2, 1981, and on or before December 31, 1988, and who is authorized to carry a loaded firearm pursuant to this section, shall not be required to have an endorsement in the format set forth in subparagraph (D) of paragraph (1) of subdivision (a) of Section 12027 until the time of the issuance, on or after January 1, 1989, of a renewal endorsement pursuant to paragraph (2).

(2) A retired peace officer who retired after January 1, 1981, shall petition the issuing agency for renewal of his or her privilege to carry a loaded firearm every five years. An honorably retired peace officer, described in paragraph (1), retired prior to January 1, 1981, shall not be required to obtain an endorsement from the issuing agency to carry a firearm. The agency from which a peace officer is honorably retired may, upon initial retirement of the peace officer, or at any time subsequent thereto, deny or revoke, for good cause, the retired officer's privilege to carry a firearm.

(3) An honorably retired peace officer listed in subdivision (c) of Section 830.5 authorized to carry loaded firearms by this subdivision shall meet the training requirements of Section 832 and shall qualify with the firearm at least annually. The individual retired peace officer shall be responsible for maintaining his or her eligibility to carry a loaded firearm. The Department of Justice shall provide subsequent arrest notification pursuant to Section 11105.2 regarding honorably retired peace officers listed in subdivision (c) of Section 830.5 to the agency from which the officer has retired.

(4) Members of the military forces of this state or of the United States engaged in the performance of their duties.

(5) Persons who are using target ranges for the purpose of practice shooting with a firearm or who are members of shooting clubs while hunting on the premises of those clubs.

(6) The carrying of pistols, revolvers, or other firearms capable of being concealed upon the person by persons who are authorized to

carry those weapons pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4.

(7) Armored vehicle guards, as defined in Section 7521 of the Business and Professions Code, (A) if hired prior to January 1, 1977; or (B) if hired on or after that date, if they have received a firearms qualification card from the Department of Consumer Affairs, in each case while acting within the course and scope of their employment.

(8) Upon approval of the sheriff of the county in which they reside, honorably retired federal officers or agents of federal law enforcement agencies including, but not limited to, the Federal Bureau of Investigation, the Secret Service, the United States Customs Service, the Federal Bureau of Alcohol, Tobacco, and Firearms, the Federal Bureau of Narcotics, the Drug Enforcement Administration, the United States Border Patrol, and officers or agents of the Internal Revenue Service who were authorized to carry weapons while on duty, who were assigned to duty within the state for a period of not less than one year, or who retired from active service in the state.

Retired federal officers or agents shall provide the sheriff with certification from the agency from which they retired certifying their service in the state, the nature of their retirement, and indicating the agency's concurrence that the retired federal officer or agent should be accorded the privilege of carrying a loaded firearm.

Upon approval, the sheriff shall issue a permit to the retired federal officer or agent indicating that he or she may carry a loaded firearm in accordance with this paragraph. The permit shall be valid for a period not exceeding five years, shall be carried by the retiree while carrying a loaded firearm, and may be revoked for good cause.

The sheriff of the county in which the retired federal officer or agent resides may require recertification prior to a permit renewal, and may suspend the privilege for cause. The sheriff may charge a fee necessary to cover any reasonable expenses incurred by the county.

(c) Subdivision (a) shall not apply to any of the following who have completed a regular course in firearms training approved by the Commission on Peace Officer Standards and Training:

(1) Patrol special police officers appointed by the police commission of any city, county, or city and county under the express terms of its charter who also, under the express terms of the charter, (A) are subject to suspension or dismissal after a hearing on charges duly filed with the commission after a fair and impartial trial, (B) are not less than 18 years of age nor more than 40 years of age, (C) possess physical qualifications prescribed by the commission, and (D) are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to time by the police commission.

(2) The carrying of weapons by animal control officers or zookeepers, regularly compensated as such by a governmental

agency when acting in the course and scope of their employment and when designated by a local ordinance or, if the governmental agency is not authorized to act by ordinance, by a resolution, either individually or by class, to carry the weapons, or by persons who are authorized to carry the weapons pursuant to Section 607f of the Civil Code, while actually engaged in the performance of their duties pursuant to that section.

(3) Harbor police officers designated pursuant to Section 663.5 of the Harbors and Navigation Code.

(d) Subdivision (a) shall not apply to any of the following who have been issued a certificate pursuant to Section 12033. The certificate shall not be required of any person who is a peace officer, who has completed all training required by law for the exercise of his or her power as a peace officer, and who is employed while not on duty as a peace officer.

(1) Guards or messengers of common carriers, banks, and other financial institutions while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state.

(2) Guards of contract carriers operating armored vehicles pursuant to California Highway Patrol and Public Utilities Commission authority (A) if hired prior to January 1, 1977; or (B) if hired on or after January 1, 1977, if they have completed a course in the carrying and use of firearms which meets the standards prescribed by the Department of Consumer Affairs.

(3) Private investigators and private patrol operators who are licensed pursuant to Chapter 11.5 (commencing with Section 7512) of, and alarm company operators who are licensed pursuant to Chapter 11.6 (commencing with Section 7590) of, Division 3 of the Business and Professions Code, while acting within the course and scope of their employment.

(4) Uniformed security guards or night watch persons employed by any public agency, while acting within the scope and in the course of their employment.

(5) Uniformed security guards, regularly employed and compensated in that capacity by persons engaged in any lawful business, and uniformed alarm agents employed by an alarm company operator, while actually engaged in protecting and preserving the property of their employers or on duty or en route to or from their residences or their places of employment, and security guards and alarm agents en route to or from their residences or employer-required range training. Nothing in this paragraph shall be construed to prohibit cities and counties from enacting ordinances requiring alarm agents to register their names.

(6) Uniformed employees of private patrol operators and private investigators licensed pursuant to Chapter 11.5 (commencing with Section 7512) of Division 3 of the Business and Professions Code while acting within the course and scope of their employment.

(e) In order to determine whether or not a firearm is loaded for

the purpose of enforcing this section, peace officers are authorized to examine any firearm carried by anyone on his or her person or in a vehicle while in any public place or on any public street in an incorporated city or prohibited area of an unincorporated territory. Refusal to allow a peace officer to inspect a firearm pursuant to this section constitutes probable cause for arrest for violation of this section.

(f) As used in this section, "prohibited area" means any place where it is unlawful to discharge a weapon.

(g) A firearm shall be deemed to be loaded for the purposes of this section when there is an unexpended cartridge or shell, consisting of a case which holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm; except that a muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder.

(h) Nothing in this section shall prevent any person engaged in any lawful business, including a nonprofit organization, or any officer, employee, or agent authorized by that person for lawful purposes connected with that business, from having a loaded firearm within the person's place of business, or any person in lawful possession of private property from having a loaded firearm on that property.

(i) Nothing in this section shall prevent any person from carrying a loaded firearm in an area within an incorporated city while engaged in hunting, provided that the hunting at that place and time is not prohibited by the city council.

(j) (1) Nothing in this section is intended to preclude the carrying of any loaded firearm, under circumstances where it would otherwise be lawful, by a person who reasonably believes that the person or property of himself or herself or of another is in immediate, grave danger and that the carrying of the weapon is necessary for the preservation of that person or property. As used in this subdivision, "immediate" means the brief interval before and after the local law enforcement agency, when reasonably possible, has been notified of the danger and before the arrival of its assistance.

(2) A violation of this section is justifiable when a person who possesses a firearm reasonably believes that he or she is in grave danger because of circumstances forming the basis of a current restraining order issued by a court against another person or persons who has or have been found to pose a threat to his or her life or safety. This paragraph may not apply when the circumstances involve a reciprocal restraining order issued pursuant to Section 4359 of the Civil Code absent a factual finding of a specific threat to the person's life or safety. It is not the intent of the Legislature to limit, restrict, or narrow the application of current statutory or judicial authority to apply this or other justifications to defendants charged with violating Section 12025 or of committing other similar offenses.

Upon trial for violating this section, the trier of fact shall determine whether the defendant was acting out of a reasonable belief that he or she was in grave danger.

(k) Nothing in this section is intended to preclude the carrying of a loaded firearm by any person while engaged in the act of making or attempting to make a lawful arrest.

(*l*) Nothing in this section shall prevent any person from having a loaded weapon, if it is otherwise lawful, at his or her place of residence, including any temporary residence or campsite.

SEC. 3.1. Section 12031 of the Penal Code is amended to read:

12031. (a) (1) Except as provided in subdivision (b), (c), or (d), every person who carries a loaded firearm on his or her person or in a vehicle while in any public place or on any public street in an incorporated city or in any public place or on any public street in a prohibited area of unincorporated territory is guilty of a misdemeanor.

(2) Notwithstanding subdivisions 2 and 3 of Section 836, a peace officer may make an arrest without a warrant:

(A) When the person arrested has violated this section, although not in the officer's presence.

(B) Whenever the officer has reasonable cause to believe that the person to be arrested has violated this section, whether or not this section has, in fact, been violated.

(3) (A) Every person convicted under this section who has previously been convicted of an offense enumerated in Section 12001.6, or of any crime made punishable under this chapter, shall serve a term of at least three months in a county jail, or, if granted probation, or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned for a period of at least three months.

(B) The court shall apply the three-month minimum sentence except in unusual cases where the interests of justice would best be served by granting probation or suspending the imposition or execution of sentence without the minimum imprisonment required in this subdivision or by granting probation or suspending the imposition or execution of sentence with conditions other than those set forth in this subdivision, in which case, the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

(b) Subdivision (a) shall not apply to any of the following:

(1) Peace officers listed in Section 830.1 or 830.2, whether active or honorably retired, other duly appointed peace officers, honorably retired peace officers listed in subdivision (c) of Section 830.5, full-time paid peace officers of other states and the federal government who are carrying out official duties while in California, or any person summoned by any of those officers to assist in making arrests or preserving the peace while the person is actually engaged in assisting that officer. Any peace officer described in this paragraph

who has been honorably retired shall be issued an identification certificate by the agency from which the officer has retired. The issuing agency may charge a fee necessary to cover any reasonable expenses incurred by the agency in issuing certificates pursuant to this paragraph and paragraph (3).

Any officer retired after January 1, 1981, shall have an endorsement on the identification certificate stating that the issuing agency approves the officer's carrying of a loaded firearm.

No endorsement or renewal endorsement issued pursuant to paragraph (2) shall be effective unless it is in the format set forth in subparagraph (D) of paragraph (1) of subdivision (a) of Section 12027, except that any peace officer listed in subdivision (f) of Section 830.2 or in subdivision (c) of Section 830.5, who is retired between January 2, 1981, and on or before December 31, 1988, and who is authorized to carry a loaded firearm pursuant to this section, shall not be required to have an endorsement in the format set forth in subparagraph (D) of paragraph (1) of subdivision (a) of Section 12027 until the time of the issuance, on or after January 1, 1989, of a renewal endorsement pursuant to paragraph (2).

(2) A retired peace officer who retired after January 1, 1981, shall petition the issuing agency for renewal of his or her privilege to carry a loaded firearm every five years. An honorably retired peace officer, described in paragraph (1), retired prior to January 1, 1981, shall not be required to obtain an endorsement from the issuing agency to carry a firearm. The agency from which a peace officer is honorably retired may, upon initial retirement of the peace officer, or at any time subsequent thereto, deny or revoke, for good cause, the retired officer's privilege to carry a firearm.

(3) An honorably retired peace officer listed in subdivision (c) of Section 830.5 authorized to carry loaded firearms by this subdivision shall meet the training requirements of Section 832 and shall qualify with the firearm at least annually. The individual retired peace officer shall be responsible for maintaining his or her eligibility to carry a loaded firearm. The Department of Justice shall provide subsequent arrest notification pursuant to Section 11105.2 regarding honorably retired peace officers listed in subdivision (c) of Section 830.5 to the agency from which the officer has retired.

(4) Members of the military forces of this state or of the United States engaged in the performance of their duties.

(5) Persons who are using target ranges for the purpose of practice shooting with a firearm or who are members of shooting clubs while hunting on the premises of those clubs.

(6) The carrying of pistols, revolvers, or other firearms capable of being concealed upon the person by persons who are authorized to carry those weapons pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4.

(7) Armored vehicle guards, as defined in Section 7521 of the Business and Professions Code, (A) if hired prior to January 1, 1977; or (B) if hired on or after that date, if they have received a firearms

qualification card from the Department of Consumer Affairs, in each case while acting within the course and scope of their employment.

(8) Upon approval of the sheriff of the county in which they reside, honorably retired federal officers or agents of federal law enforcement agencies including, but not limited to, the Federal Bureau of Investigation, the Secret Service, the United States Customs Service, the Federal Bureau of Alcohol, Tobacco, and Firearms, the Federal Bureau of Narcotics, the Drug Enforcement Administration, the United States Border Patrol, and officers or agents of the Internal Revenue Service who were authorized to carry weapons while on duty, who were assigned to duty within the state for a period of not less than one year, or who retired from active service in the state.

Retired federal officers or agents shall provide the sheriff with certification from the agency from which they retired certifying their service in the state, the nature of their retirement, and indicating the agency's concurrence that the retired federal officer or agent should be accorded the privilege of carrying a loaded firearm.

Upon approval, the sheriff shall issue a permit to the retired federal officer or agent indicating that he or she may carry a loaded firearm in accordance with this paragraph. The permit shall be valid for a period not exceeding five years, shall be carried by the retiree while carrying a loaded firearm, and may be revoked for good cause.

The sheriff of the county in which the retired federal officer or agent resides may require recertification prior to a permit renewal, and may suspend the privilege for cause. The sheriff may charge a fee necessary to cover any reasonable expenses incurred by the county.

(c) Subdivision (a) shall not apply to any of the following who have completed a regular course in firearms training approved by the Commission on Peace Officer Standards and Training:

(1) Patrol special police officers appointed by the police commission of any city, county, or city and county under the express terms of its charter who also, under the express terms of the charter, (A) are subject to suspension or dismissal after a hearing on charges duly filed with the commission after a fair and impartial trial, (B) are not less than 18 years of age nor more than 40 years of age, (C) possess physical qualifications prescribed by the commission, and (D) are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to time by the police commission.

(2) The carrying of weapons by animal control officers or zookeepers, regularly compensated as such by a governmental agency when acting in the course and scope of their employment and when designated by a local ordinance or, if the governmental agency is not authorized to act by ordinance, by a resolution, either individually or by class, to carry the weapons, or by persons who are authorized to carry the weapons pursuant to Section 607f of the Civil

Code, while actually engaged in the performance of their duties pursuant to that section.

(3) Harbor police officers designated pursuant to Section 663.5 of the Harbors and Navigation Code.

(d) Subdivision (a) shall not apply to any of the following who have been issued a certificate pursuant to Section 12033. The certificate shall not be required of any person who is a peace officer, who has completed all training required by law for the exercise of his or her power as a peace officer, and who is employed while not on duty as a peace officer.

(1) Guards or messengers of common carriers, banks, and other financial institutions while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state.

(2) Guards of contract carriers operating armored vehicles pursuant to California Highway Patrol and Public Utilities Commission authority (A) if hired prior to January 1, 1977; or (B) if hired on or after January 1, 1977, if they have completed a course in the carrying and use of firearms which meets the standards prescribed by the Department of Consumer Affairs.

(3) Private investigators and private patrol operators who are licensed pursuant to Chapter 11.5 (commencing with Section 7512) of, and alarm company operators who are licensed pursuant to Chapter 11.6 (commencing with Section 7590) of, Division 3 of the Business and Professions Code, while acting within the course and scope of their employment.

(4) Uniformed security guards or night watch persons employed by any public agency, while acting within the scope and in the course of their employment.

(5) Uniformed security guards, regularly employed and compensated in that capacity by persons engaged in any lawful business, and uniformed alarm agents employed by an alarm company operator, while actually engaged in protecting and preserving the property of their employers or on duty or en route to or from their residences or their places of employment, and security guards and alarm agents en route to or from their residences or employer-required range training. Nothing in this paragraph shall be construed to prohibit cities and counties from enacting ordinances requiring alarm agents to register their names.

(6) Uniformed employees of private patrol operators and private investigators licensed pursuant to Chapter 11.5 (commencing with Section 7512) of Division 3 of the Business and Professions Code while acting within the course and scope of their employment.

(e) In order to determine whether or not a firearm is loaded for the purpose of enforcing this section, peace officers are authorized to examine any firearm carried by anyone on his or her person or in a vehicle while in any public place or on any public street in an incorporated city or prohibited area of an unincorporated territory. Refusal to allow a peace officer to inspect a firearm pursuant to this

section constitutes probable cause for arrest for violation of this section.

(f) As used in this section, "prohibited area" means any place where it is unlawful to discharge a weapon.

(g) A firearm shall be deemed to be loaded for the purposes of this section when there is an unexpended cartridge or shell, consisting of a case which holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm; except that a muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder.

(h) Nothing in this section shall prevent any person engaged in any lawful business, including a nonprofit organization, or any officer, employee, or agent authorized by that person for lawful purposes connected with that business, from having a loaded firearm within the person's place of business, or any person in lawful possession of private property from having a loaded firearm on that property.

(i) Nothing in this section shall prevent any person from carrying a loaded firearm in an area within an incorporated city while engaged in hunting, provided that the hunting at that place and time is not prohibited by the city council.

(j) (1) Nothing in this section is intended to preclude the carrying of any loaded firearm, under circumstances where it would otherwise be lawful, by a person who reasonably believes that the person or property of himself or herself or of another is in immediate, grave danger and that the carrying of the weapon is necessary for the preservation of that person or property. As used in this subdivision, "immediate" means the brief interval before and after the local law enforcement agency, when reasonably possible, has been notified of the danger and before the arrival of its assistance.

(2) A violation of this section is justifiable when a person who possesses a firearm reasonably believes that he or she is in grave danger because of circumstances forming the basis of a current restraining order issued by a court against another person or persons who has or have been found to pose a threat to his or her life or safety. This paragraph may not apply when the circumstances involve a reciprocal restraining order issued pursuant to Section 4359 of the Civil Code absent a factual finding of a specific threat to the person's life or safety. It is not the intent of the Legislature to limit, restrict, or narrow the application of current statutory or judicial authority to apply this or other justifications to defendants charged with violating Section 12025 or of committing other similar offenses.

Upon trial for violating this section, the trier of fact shall determine whether the defendant was acting out of a reasonable belief that he or she was in grave danger.

(k) Nothing in this section is intended to preclude the carrying of a loaded firearm by any person while engaged in the act of making

or attempting to make a lawful arrest.

(*l*) Nothing in this section shall prevent any person from having a loaded weapon, if it is otherwise lawful, at his or her place of residence, including any temporary residence or campsite.

SEC. 4. Section 12280 of the Penal Code is amended to read:

12280. (a) (1) Any person who, within this state, manufactures or causes to be manufactured, distributes, transports, or imports into the state, keeps for sale, or offers or exposes for sale, or who gives or lends any assault weapon, except as provided by this chapter, is guilty of a felony, and upon conviction shall be punished by imprisonment in the state prison for four, six, or eight years.

(2) In addition and consecutive to the punishment imposed under paragraph (1), any person who transfers, lends, sells, or gives any assault weapon to a minor in violation of paragraph (1) shall receive an enhancement of one year.

(b) Except as provided in Section 12288, any person who, within this state, possesses any assault weapon, except as provided in this chapter, is guilty of a public offense and upon conviction shall be punished by imprisonment in the state prison, or in a county jail not exceeding one year. However, if the person presents proof that he or she lawfully possessed the assault weapon prior to June 1, 1989, or prior to a declaration issued pursuant to Section 12276.5 declaring that firearm to be an assault weapon, and has since either registered the firearm and any other lawfully obtained firearm subject to this chapter pursuant to Section 12285 or relinquished them pursuant to Section 12288, a first-time violation of this subdivision shall be an infraction, punishable by a fine of up to five hundred dollars ($500), but not less than three hundred fifty dollars ($350), if the person has otherwise possessed the firearm in compliance with subdivision (c) of Section 12285. In these cases, the firearm shall be returned unless the court finds in the interest of public safety, after notice and hearing, that the assault weapon should be destroyed pursuant to Section 12028.

(c) Notwithstanding Section 654 or any other provision of law, any person who commits another crime while violating this section may receive an additional, consecutive punishment of one year for violating this section in addition and consecutive to the punishment, including enhancements, which is prescribed for the other crime.

(d) Subdivisions (a) and (b) shall not apply to the sale to, purchase by, or possession of assault weapons by the Department of Justice, police departments, sheriffs' offices, marshals' offices, the Department of Corrections, the California Highway Patrol, the California State Police, district attorneys' offices, or the military or naval forces of this state or of the United States for use in the discharge of their official duties; nor shall anything in this chapter prohibit the possession or use of assault weapons by sworn members of these agencies when on duty and the use is within the scope of their duties.

(e) Subdivision (b) shall not apply to the possession of an assault

weapon by any person during the 1990 calendar year if all of the following are applicable:

(1) The person is eligible under this chapter to register the particular assault weapon by January 1, 1991.

(2) The person lawfully possessed the particular assault weapon described in paragraph (1) prior to June 1, 1989.

(3) The person is otherwise in compliance with this chapter.

(f) Subdivisions (a) and (b) shall not apply to the manufacture by persons who are issued permits pursuant to Section 12287 of assault weapons for sale to the following:

(1) Exempt entities listed in subdivision (d).

(2) Entities and persons who have been issued permits pursuant to Section 12286.

(3) Entities outside the state who have, in effect, a federal firearms dealer's license solely for the purpose of distribution to an entity listed in paragraphs (4) to (6), inclusive.

(4) Federal military and law enforcement agencies.

(5) Law enforcement and military agencies of other states.

(6) Foreign governments and agencies approved by the United States State Department.

(g) Subdivision (a) shall not apply to a person who is the executor or administrator of an estate that includes an assault weapon registered under Section 12285 which is disposed of as authorized by the probate court, if the disposition is otherwise permitted by this chapter.

(h) Subdivision (b) shall not apply to a person who is the executor or administrator of an estate that includes an assault weapon registered under Section 12285, if the assault weapon is possessed at a place set forth in paragraph (1) of subdivision (c) of Section 12285 or as authorized by the probate court.

(i) Subdivision (a) shall not apply to:

(1) A person who lawfully possesses and has registered an assault weapon pursuant to this chapter who lends that assault weapon to another if all the following apply:

(A) The person to whom the assault weapon is lent is 18 years of age or over and is not in a class of persons prohibited from possessing firearms by virtue of Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person to whom the assault weapon is lent remains in the presence of the registered possessor of the assault weapon.

(C) The assault weapon is possessed at any of the following locations:

(i) While on a target range which holds a regulatory or business license for the purpose of practicing shooting at that target range.

(ii) While on the premises of a target range of a public or private club or organization organized for the purpose of practicing shooting at targets.

(iii) While attending any exhibition, display, or educational project which is about firearms and which is sponsored by, conducted

under the auspices of, or approved by a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms.

(2) The return of an assault weapon to the registered possessor which is lent by the same pursuant to paragraph (1).

(j) Subdivision (b) shall not apply to the possession of an assault weapon by a person to whom an assault weapon is lent pursuant to subdivision (i).

SEC. 4.5. Section 12280 of the Penal Code is amended to read:

12280. (a) (1) Any person who, within this state, manufactures or causes to be manufactured, distributes, transports, or imports into the state, keeps for sale, or offers or exposes for sale, or who gives or lends any assault weapon, except as provided by this chapter, is guilty of a felony, and upon conviction shall be punished by imprisonment in the state prison for four, six, or eight years.

(2) In addition and consecutive to the punishment imposed under paragraph (1), any person who transfers, lends, sells, or gives any assault weapon to a minor in violation of paragraph (1) shall receive an enhancement of one year.

(b) Except as provided in Section 12288, any person who, within this state, possesses any assault weapon, except as provided in this chapter, is guilty of a public offense and upon conviction shall be punished by imprisonment in the state prison, or in a county jail, not exceeding one year. However, if the person presents proof that he or she lawfully possessed the assault weapon prior to June 1, 1989, or prior to the date it was specified as an assault weapon, and has since either registered the firearm and any other lawfully obtained firearm subject to this chapter pursuant to Section 12285 or relinquished them pursuant to Section 12288, a first-time violation of this subdivision shall be an infraction punishable by a fine of up to five hundred dollars ($500), but not less than three hundred fifty dollars ($350), if the person has otherwise possessed the firearm in compliance with subdivision (c) of Section 12285. In these cases, the firearm shall be returned unless the court finds in the interest of public safety, after notice and hearing, that the assault weapon should be destroyed pursuant to Section 12028.

(c) Notwithstanding Section 654 or any other provision of law, any person who commits another crime while violating this section may receive an additional, consecutive punishment of one year for violating this section in addition and consecutive to the punishment, including enhancements, which is prescribed for the other crime.

(d) Subdivisions (a) and (b) shall not apply to the sale to, purchase by, or possession of assault weapons by the Department of Justice, police departments, sheriffs' offices, marshals' offices, the Department of Corrections, the California Highway Patrol, the California State Police, district attorneys' offices, or the military or naval forces of this state or of the United States for use in the discharge of their official duties; nor shall anything in this chapter prohibit the possession or use of assault weapons by sworn members

of these agencies when on duty and the use is within the scope of their duties.

(e) Subdivision (b) shall not apply to the possession of an assault weapon by any person during the 1990 calendar year, or during the 90-day period immediately after the date it was specified as an assault weapon, if all of the following are applicable:

(1) The person is eligible under this chapter to register the particular assault weapon by January 1, 1991.

(2) The person lawfully possessed the particular assault weapon described in paragraph (1) prior to June 1, 1989, or prior to the date it was specified as an assault weapon.

(3) The person is otherwise in compliance with this chapter.

(f) Subdivisions (a) and (b) shall not apply to the manufacture by persons who are issued permits pursuant to Section 12287 of assault weapons for sale to the following:

(1) Exempt entities listed in subdivision (d).

(2) Entities and persons who have been issued permits pursuant to Section 12286.

(3) Entities outside the state who have, in effect, a federal firearms dealer's license solely for the purpose of distribution to an entity listed in paragraphs (4) to (6), inclusive.

(4) Federal military and law enforcement agencies.

(5) Law enforcement and military agencies of other states.

(6) Foreign governments and agencies approved by the United States State Department.

(g) Subdivision (a) shall not apply to a person who is the executor or administrator of an estate that includes an assault weapon registered under Section 12285 which is disposed of as authorized by the probate court, if the disposition is otherwise permitted by this chapter.

(h) Subdivision (b) shall not apply to a person who is the executor or administrator of an estate that includes an assault weapon registered under Section 12285, if the assault weapon is possessed at a place set forth in paragraph (1) of subdivision (c) of Section 12285 or as authorized by the probate court.

(i) Subdivision (a) shall not apply to:

(1) A person who lawfully possesses and has registered an assault weapon pursuant to this chapter who lends that assault weapon to another if all the following apply:

(A) The person to whom the assault weapon is lent is 18 years of age or over and is not in a class of persons prohibited from possessing firearms by virtue of Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person to whom the assault weapon is lent remains in the presence of the registered possessor of the assault weapon.

(C) The assault weapon is possessed at any of the following locations:

(i) While on a target range which holds a regulatory or business license for the purpose of practicing shooting at that target range.

(ii) While on the premises of a target range of a public or private club or organization organized for the purpose of practicing shooting at targets.

(iii) While attending any exhibition, display, or educational project which is about firearms and which is sponsored by, conducted under the auspices of, or approved by a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms.

(2) The return of an assault weapon to the registered possessor which is lent by the same pursuant to paragraph (1).

(j) Subdivision (b) shall not apply to the possession of an assault weapon by a person to whom an assault weapon is lent pursuant to subdivision (i).

(k) As used in this chapter, the date a firearm is "specified as an assault weapon" is the earliest of the following:

(1) The effective date of an amendment to Section 12276 which adds the designation of the specified firearm.

(2) The effective date of the list promulgated pursuant to Section 12276.5 which adds or changes the designation of the specified firearm.

SEC. 5. Section 8100 of the Welfare and Institutions Code is amended to read:

8100. (a) A person shall not have in his or her possession or under his or her custody or control, or purchase or receive, or attempt to purchase or receive, any firearms whatsoever or any other deadly weapon, if on or after January 1, 1992, he or she has been admitted to a facility and is receiving inpatient treatment and, in the opinion of the attending health professional who is primarily responsible for the patient's treatment of a mental disorder, is a danger to self or others, as specified by Section 5150, 5250, or 5300, even though the patient has consented to that treatment. A person is not subject to this subdivision once he or she is discharged from the facility.

(b) (1) A person shall not have in his or her possession or under his or her custody or control, or purchase or receive, or attempt to purchase or receive, any firearms whatsoever or any other deadly weapon for a period of six months whenever, on or after January 1, 1992, he or she communicates to a licensed psychotherapist, as defined in subdivisions (a) to (e), inclusive, of Section 1010 of the Evidence Code, a serious threat of physical violence against a reasonably identifiable victim or victims. The six-month period shall commence from the date that the licensed psychotherapist reports to the local law enforcement agency the identity of the person making the communication. The prohibition provided for in this subdivision shall not apply unless the licensed psychotherapist notifies a local law enforcement agency of the threat by that person. The person, however, may own, possess, have custody or control over, or receive or purchase any firearm if a superior court, pursuant to paragraph (3) and upon petition of the person, has found, by a preponderance of the evidence, that the person is likely to use

firearms or other deadly weapons in a safe and lawful manner.

(2) Upon receipt of the report from the local law enforcement agency pursuant to subdivision (c) of Section 8105, the Department of Justice shall notify by certified mail, return receipt requested, a person subject to this subdivision of the following:

(A) That he or she is prohibited from possessing, having custody or control over, receiving, or purchasing any firearm or other deadly weapon for a period of six months commencing from the date that the licensed psychotherapist reports to the local law enforcement agency the identity of the person making the communication. The notice shall state the date when the prohibition commences and ends.

(B) That he or she may petition a court, as provided in this subdivision, for an order permitting the person to own, possess, control, receive, or purchase a firearm.

(3) Any person who is subject to paragraph (1) may petition the superior court of his or her county of residence for an order that he or she may own, possess, have custody or control over, receive, or purchase firearms. At the time the petition is filed, the clerk of the court shall set a hearing date and notify the person, the Department of Justice, and the district attorney. The people of the State of California shall be the respondent in the proceeding and shall be represented by the district attorney. Upon motion of the district attorney, or upon its own motion, the superior court may transfer the petition to the county in which the person resided at the time of the statements, or the county in which the person made the statements. Within seven days after receiving notice of the petition, the Department of Justice shall file copies of the reports described in Section 8105 with the superior court. The reports shall be disclosed upon request to the person and to the district attorney. The district attorney shall be entitled to a continuance of the hearing to a date of not less than 14 days after the district attorney is notified of the hearing date by the clerk of the court. Notwithstanding any other provision of law, declarations, police reports, including criminal history information, and any other material and relevant evidence that is not excluded under Section 352 of the Evidence Code, shall be admissible at the hearing under this paragraph. If the court finds by a preponderance of the evidence that the person would be likely to use firearms in a safe and lawful manner, the court shall order that the person may have custody or control over, receive, possess, or purchase firearms. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the department shall delete any reference to the prohibition against firearms from the person's state summary criminal history information.

(c) "Discharge," for the purposes of this section, does not include a leave of absence from a facility.

(d) "Attending health care professional," as used in this section, means the licensed health care professional primarily responsible for the person's treatment who is qualified to make the decision that the

person has a mental disorder and has probable cause to believe that the person is a danger to self or others.

(e) "Deadly weapon," as used in this section and in Sections 8101, 8102, and 8103, means any weapon, the possession or concealed carrying of which is prohibited by Section 12020 of the Penal Code.

(f) "Danger to self," as used in subdivision (a), means a voluntary person who has made a serious threat of, or attempted, suicide with the use of a firearm or other deadly weapon.

(g) A violation of subdivision (a) of, or paragraph (1) of subdivision (b) of, this section shall be a public offense, punishable by imprisonment in the state prison, or in a county jail for not more than one year, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(h) The prohibitions set forth in this section shall be in addition to those set forth in Section 8103.

(i) Any person admitted and receiving treatment prior to January 1, 1992, shall be governed by this section, as amended by Chapter 1090 of the Statutes of 1990, until discharged from the facility.

SEC. 6. Section 11 of Chapter 177 of the Statutes of 1990 is amended to read:

Sec. 11. This act shall be known, and may be cited as, "The Davis-Keene Prohibition Against Rifle and Shotgun Registration Act of 1990.

SEC. 7. Section 3.1 of this bill incorporates amendments to Section 12031 of the Penal Code proposed by both this bill and AB 637. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 12031 of the Penal Code, and (3) this bill is enacted after AB 637, in which case Section 3 of this bill shall not become operative.

SEC. 8. Section 4.5 of this bill incorporates amendments to Section 12280 of the Penal Code proposed by this bill and SB 263. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 12280 of the Penal Code, and (3) this bill is enacted after SB 263, in which case Section 4 of this bill shall not become operative.

SEC. 9. Section 5 of this bill shall become operative only if (1) both this bill and AB 664 are enacted and become effective on January 1, 1992, (2) AB 664 amends Section 8100 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 664.

SEC. 10. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become

operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 953

An act to amend Sections 546, 547, and 550 of the Code of Civil Procedure, and to amend Sections 12021 and 12076 of, and to repeal Section 12076.1 of, the Penal Code, relating to domestic violence, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 13, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 546 of the Code of Civil Procedure is amended to read:

546. (a) The court may issue ex parte any of the orders set forth in subdivision (a) of Section 4359 of the Civil Code, or in the case of a nonmarital relationship between the plaintiff and the defendant any of the orders set forth in paragraphs (2), (3), and (6) of subdivision (a) of Section 4359 of the Civil Code and where there is a minor child of the plaintiff and the defendant an order determining the temporary custody of the child. In the case in which a temporary restraining order is granted without notice, the matter shall be made returnable on an order requiring cause to be shown why the order should not be dissolved, on the earliest day that the business of the court will permit, but not later than 20 days or, if good cause appears to the court, 25 days from the date the temporary restraining order is granted. The court may on motion of the plaintiff or on its own motion shorten the time for service on the defendant of the order to show cause.

The temporary restraining order shall set forth on its face a notice in substantially the following form:

"NOTICE TO DEFENDANT: If you do not appear at the court hearing specified herein, the court may grant the requested orders for a period of up to 3 years without further notice to you."

The court may issue an ex parte order pursuant to this subdivision, excluding one party from a residence or dwelling only when the affidavit in support of an application for the order affirmatively shows facts sufficient for the court to ascertain that the plaintiff has a right under color of law to possession of the premises.

(b) The presiding judge of the superior court in each county shall designate not less than one judge, commissioner, or referee to be reasonably available to orally issue, by telephone or otherwise, emergency protective orders at all times when the superior court is not in session. A judge, commissioner, or referee so designated may issue an ex parte emergency protective order when a police or

sheriff's officer or a peace officer of the Department of Parks and Recreation, as defined in subdivision (g) of Section 830.2 of the Penal Code, asserts reasonable grounds to believe that a person is in immediate and present danger of domestic violence, based upon the person's allegation of a recent incident of abuse or threat of abuse. The order may consist of any of the orders set forth in paragraphs (2), (3), and (6) of subdivision (a) of Section 4359 of the Civil Code, as well as an order determining the temporary care and control of any minor children of the endangered person and the person against whom the order is sought. The order shall be issued without prejudice to any party.

A judge, commissioner, or referee may issue an emergency protective order pursuant to this subdivision only upon a finding that reasonable grounds have been asserted to believe that an immediate and present danger of domestic violence exists and that an emergency protective order is necessary to prevent the occurrence or recurrence of domestic violence. The police or sheriff's officer or peace officer of the Department of Parks and Recreation, as defined in subdivision (g) of Section 830.2 of the Penal Code, requesting the order shall reduce it to writing, and shall sign the order. The order shall include all of the following:

(1) A statement of the grounds asserted for the order.

(2) The date and time the order expires.

(3) The address of the superior court for the district or county in which the endangered person resides.

(4) The following statement: "To the Protected Party: This order will last only until the date and time noted above. If you wish to seek continuing protection, you will have to apply for an order from the court, at the address noted above, when it opens. You may seek the advice of an attorney as to any matter connected with your application for any future court orders. The attorney should be consulted promptly so that he or she may assist you in making your application. To the Restrained Party: This order will last until the date noted above. The protected party may, however, obtain a more permanent restraining order when the court opens. You may seek the advice of an attorney as to any matter connected with the application. The attorney should be consulted promptly so that he or she may assist you in responding to the application."

The Judicial Council shall prescribe the form of the order and any other documents required by this subdivision. The statement required in paragraph (4) shall be printed in English and Spanish.

The officer who requested the emergency protective order, while on duty, shall carry copies of the order.

The emergency protective order shall be served upon the restrained party by the officer, if the restrained party can reasonably be located, and a copy shall be given to the protected party. A copy also shall be filed with the court as soon as practicable after issuance.

An emergency protective order shall expire not later than the close of judicial business on the second day of judicial business

following the day of its issue.

The availability of an emergency protective order shall not be affected by the fact that the endangered person has vacated the household to avoid abuse.

A police or sheriff's officer or peace officer of the Department of Parks and Recreation, as defined in subdivision (g) of Section 830.2 of the Penal Code, shall use every reasonable means to enforce an emergency protective order issued pursuant to this subdivision. A police or sheriff's officer or peace officer of the Department of Parks and Recreation, as defined in subdivision (g) of Section 830.2 of the Penal Code, acting pursuant to this subdivision shall not be held civilly or criminally liable if he or she has acted in good faith with regard thereto.

(c) A judge, commissioner, or referee designated pursuant to subdivision (b) may issue an ex parte emergency protective order when a police or sheriff's officer asserts reasonable grounds to believe that a child is in immediate and present danger of abuse by a family or household member, based upon an allegation of a recent incident of abuse or threat of abuse by that family or household member. The order may consist of any of the orders authorized in Section 213.5 of the Welfare and Institutions Code, and may include provisions placing the temporary care and control of the endangered child and any other minor children in the family or household with the parent or legal guardian of the endangered child who is not a restrained party. The order shall expire not later than the close of judicial business on the second day of judicial business following the day of its issue. The order shall be issued without prejudice to any party.

A judge, commissioner, or referee may issue an emergency protective order pursuant to this subdivision only upon a finding that reasonable grounds have been asserted to believe that a child is in immediate and present danger of abuse and that an emergency protective order is necessary to prevent the occurrence or recurrence of abuse. The police or sheriff's officer requesting the order shall reduce it to writing, and shall sign the order. The order shall include all of the following:

(1) A statement of the grounds asserted for the order.

(2) The date and time the order expires.

(3) The address of the superior court for the district or county in which the endangered child resides.

(4) The following statement: "This order will last only until the date and time noted above. A more permanent restraining order under Section 213.5 of the Welfare and Institutions Code may be applied for from the court, at the address noted above, when it opens. The advice of an attorney may be sought in connection with the application for a more permanent restraining order."

The parent or legal guardian of the endangered child who is not a restrained party, or any person having temporary custody of the endangered child, may apply for a more permanent restraining

order under Section 213.5 of the Welfare and Institutions Code when the court opens.

The Judicial Council shall prescribe the form of the order and any other documents required by this subdivision. The statement required in paragraph (4) shall be printed in English and Spanish.

The officer who requested the emergency protective order, while on duty, shall carry copies of the order.

The emergency protective order shall be served upon the restrained party by the officer, if the restrained party can reasonably be located, and a copy shall be given to any parent or legal guardian of the endangered child who is not a restrained party, if he or she can be reasonably located, or to any person having temporary custody of the endangered child. A copy also shall be filed with the court as soon as practicable after issuance.

The availability of an emergency protective order shall not be affected by the endangered child's leaving the household to avoid abuse.

A police or sheriff's officer shall use every reasonable means to enforce an emergency protective order issued pursuant to this subdivision. A police or sheriff's officer acting pursuant to this subdivision shall not be held civilly or criminally liable if he or she has acted in good faith with regard thereto.

SEC. 1.5. Section 546 of the Code of Civil Procedure is amended to read:

546. (a) The court may issue ex parte any of the orders set forth in subdivision (a) of Section 4359 of the Civil Code, or in the case of a nonmarital relationship between the plaintiff and the defendant any of the orders set forth in paragraphs (2), (3), and (6) of subdivision (a) of Section 4359 of the Civil Code and where there is a minor child of the plaintiff and the defendant an order determining the temporary custody of the child. In the case in which a temporary restraining order is granted without notice, the matter shall be made returnable on an order requiring cause to be shown why the order should not be dissolved, on the earliest day that the business of the court will permit, but not later than 20 days or, if good cause appears to the court, 25 days from the date the temporary restraining order is granted. The court may on motion of the plaintiff or on its own motion shorten the time for service on the defendant of the order to show cause.

The temporary restraining order shall set forth on its face a notice in substantially the following form:

"NOTICE TO DEFENDANT: If you do not appear at the court hearing specified herein, the court may grant the requested orders for a period of up to 3 years without further notice to you."

The court may issue an ex parte order pursuant to this subdivision, excluding one party from a residence or dwelling only when the affidavit in support of an application for the order affirmatively shows facts sufficient for the court to ascertain that the plaintiff has a right under color of law to possession of the premises.

(b) The presiding judge of the superior court in each county shall designate not less than one judge, commissioner, or referee to be reasonably available to orally issue, by telephone or otherwise, emergency protective orders at all times whether or not the superior court is in session. A judge, commissioner, or referee so designated may issue an ex parte emergency protective order when a police or sheriff's officer or a peace officer of the Department of Parks and Recreation, as defined in subdivision (g) of Section 830.2 of the Penal Code, asserts reasonable grounds to believe that a person is in immediate and present danger of domestic violence based upon the person's allegation of a recent incident of abuse or threat of abuse. The order may consist of any of the orders set forth in paragraphs (2), (3), and (6) of subdivision (a) of Section 4359 of the Civil Code, as well as an order determining the temporary care and control of any minor children of the endangered person and the person against whom the order is sought. The order shall be issued without prejudice to any party.

A judge, commissioner, or referee may issue an emergency protective order pursuant to this subdivision only upon a finding that reasonable grounds have been asserted to believe that an immediate and present danger of domestic violence exists and that an emergency protective order is necessary to prevent the occurrence or recurrence of domestic violence. The police or sheriff's officer or peace officer of the Department of Parks and Recreation, as defined in subdivision (g) of Section 830.2 of the Penal Code, requesting the order shall reduce it to writing, and shall sign the order. The order shall include all of the following:

(1) A statement of the grounds asserted for the order.

(2) The date and time the order expires.

(3) The address of the superior court for the district or county in which the endangered person resides.

(4) The following statement: "To the Protected Party: This order will last only until the date and time noted above. If you wish to seek continuing protection, you will have to apply for an order from the court, at the address noted above. You may seek the advice of an attorney as to any matter connected with your application for any future court orders. The attorney should be consulted promptly so that he or she may assist you in making your application. To the Restrained Party: This order will last until the date noted above. The protected party may, however, obtain a more permanent restraining order from the court. You may seek the advice of an attorney as to any matter connected with the application. The attorney should be consulted promptly so that he or she may assist you in responding to the application."

The Judicial Council shall prescribe the form of the order and any other documents required by this subdivision. The statement required in paragraph (4) shall be printed in English and Spanish.

The officer who requested the emergency protective order, while on duty, shall carry copies of the order.

The emergency protective order shall be served upon the restrained party by the officer, if the restrained party can reasonably be located, and a copy shall be given to the protected party. A copy also shall be filed with the court as soon as practicable after issuance.

An emergency protective order shall expire not later than the close of judicial business on the second day of judicial business following the day of its issue.

The availability of an emergency protective order shall not be affected by the fact that the endangered person has vacated the household to avoid abuse.

A police or sheriff's officer or peace officer of the Department of Parks and Recreation, as defined in subdivision (g) of Section 830.2 of the Penal Code, shall use every reasonable means to enforce an emergency protective order issued pursuant to this subdivision. A police or sheriff's officer or peace officer of the Department of Parks and Recreation, as defined in subdivision (g) of Section 830.2 of the Penal Code, acting pursuant to this subdivision shall not be held civilly or criminally liable if he or she has acted in good faith with regard thereto.

(c) A judge, commissioner, or referee designated pursuant to subdivision (b) may issue an ex parte emergency protective order when a police or sheriff's officer asserts reasonable grounds to believe that a child is in immediate and present danger of abuse by a family or household member, based upon an allegation of a recent incident of abuse or threat of abuse by that family or household member. The order may consist of any of the orders authorized in Section 213.5 of the Welfare and Institutions Code, and may include provisions placing the temporary care and control of the endangered child and any other minor children in the family or household with the parent or legal guardian of the endangered child who is not a restrained party. The order shall expire not later than the close of judicial business on the second day of judicial business following the day of its issue. The order shall be issued without prejudice to any party.

A judge, commissioner, or referee may issue an emergency protective order pursuant to this subdivision only upon a finding that reasonable grounds have been asserted to believe that a child is in immediate and present danger of abuse and that an emergency protective order is necessary to prevent the occurrence or recurrence of abuse. The police or sheriff's officer requesting the order shall reduce it to writing, and shall sign the order. The order shall include all of the following:

(1) A statement of the grounds asserted for the order.

(2) The date and time the order expires.

(3) The address of the superior court for the district or county in which the endangered child resides.

(4) The following statement: "This order will last only until the date and time noted above. A more permanent restraining order under Section 213.5 of the Welfare and Institutions Code may be

applied for from the court, at the address noted above. The advice of an attorney may be sought in connection with the application for a more permanent restraining order."

The parent or legal guardian of the endangered child who is not a restrained party, or any person having temporary custody of the endangered child, may apply for a more permanent restraining order under Section 213.5 of the Welfare and Institutions Code from the court.

The Judicial Council shall prescribe the form of the order and any other documents required by this subdivision. The statement required in paragraph (4) shall be printed in English and Spanish.

The officer who requested the emergency protective order, while on duty, shall carry copies of the order.

The emergency protective order shall be served upon the restrained party by the officer, if the restrained party can reasonably be located, and a copy shall be given to any parent or legal guardian of the endangered child who is not a restrained party, if he or she can be reasonably located, or to any person having temporary custody of the endangered child. A copy also shall be filed with the court as soon as practicable after issuance.

The availability of an emergency protective order shall not be affected by the endangered child's leaving the household to avoid abuse.

A police or sheriff's officer shall use every reasonable means to enforce an emergency protective order issued pursuant to this subdivision. A police or sheriff's officer acting pursuant to this subdivision shall not be held civilly or criminally liable if he or she has acted in good faith with regard thereto.

SEC. 2. Section 547 of the Code of Civil Procedure is amended to read:

547. The court may issue upon, notice and a hearing, any of the following orders:

(a) (1) Any of the orders set forth in paragraphs (1), (4), and (5) of subdivision (a) of Section 4359 of the Civil Code, or in the case of a nonmarital relationship between the petitioner and the respondent, any of the orders set forth in paragraphs (2), (3), (5), and (6) of subdivision (a) of Section 4359 of the Civil Code and where there is a minor child of the petitioner and the respondent an order determining the temporary custody of the child. After notice and a hearing, the court may order the exclusion of one party from the common dwelling of both parties or from the dwelling of the other party on a finding only that physical or emotional harm would otherwise result to the other party or any person under the care, custody, or control of the other party or to any minor child of the parties or of the other party.

(2) Any of the orders set forth in paragraphs (2) and (3) of subdivision (a) of Section 4359 of the Civil Code. After notice and a hearing, the court may order the exclusion of one party from the common dwelling of both parties or from the dwelling of the other

party on a finding only that physical or emotional harm would otherwise result to the other party or any person under the care, custody, or control of the other party or to any minor child of the parties or of the other party.

(b) Where there exists a presumption that the respondent is the natural father of any minor child, pursuant to Section 7004 of the Civil Code, and the child is in the custody of the petitioner, the court may order a party to pay any amount necessary for the support and maintenance of the child if such an order would otherwise be authorized in an action brought pursuant to Part 7 (commencing with Section 7000) of Division 4 of the Civil Code; however, any order pursuant to this subdivision shall be without prejudice in any such action.

(c) An order that restitution be paid to the family or household member for loss of earnings and out-of-pocket expenses, including, but not limited to, expenses for medical care and temporary housing, incurred as a direct result of the abuse or any actual physical injuries sustained therefrom; an order that restitution be paid by petitioner for out-of-pocket expenses incurred by a party as a result of any order issued ex parte which is found by the court to have been issued upon facts shown at a noticed hearing to be insufficient to support the order; or an order requiring that the respondent shall pay any public or private agency for the reasonable cost of providing services to a family or household member required as a direct result of the abuse inflicted by the respondent or any actual injuries sustained therefrom.

(d) An order requiring any party to participate in counseling with a licensed mental health professional, or through other community programs and services that provide appropriate counseling, including, but not limited to, mental health or substance abuse services, where it is shown that the parties intend to continue to reside in the same household or have continued to reside in the same household after previous instances of domestic violence. The court may also order a restrained party to participate in batterer's treatment counseling. Where there has been a history of domestic violence between the parties and a protective order is in effect, at the request of the party protected by the order, the parties shall participate in counseling separately and at separate times. The court shall fix the costs and shall order the entire cost of the services to be borne by the parties in the proportion as the court deems reasonable. Prior to issuing the court order requiring counseling, the court shall find that the financial burden created by the court order for counseling does not otherwise jeopardize a party's other financial obligations.

(e) An order for the payment of attorneys' fees and costs of the prevailing party.

SEC. 3. Section 550 of the Code of Civil Procedure is amended to read:

550. (a) The court shall order the petitioner or the attorney for

the petitioner to deliver, or the county clerk to mail, a copy of any order, or extension, modification, or termination thereof granted pursuant to this chapter, by the close of the business day on which the order, extension, modification or termination was granted, and any subsequent proof of service thereof, to each local law enforcement agency designated by the petitioner or the attorney for the petitioner, having jurisdiction over the residence of the petitioner and such other locations where the court determines that acts of domestic violence against the petitioner are likely to occur. In addition, the court shall order the county clerk to provide, without cost, to a petitioner five certified, stamped, and endorsed copies of any order, extension, modification, or termination thereof granted pursuant to this chapter.

Each appropriate law enforcement agency shall make available through an existing system for verification, information as to the existence, terms and current status of any order issued pursuant to this chapter to any law enforcement officer responding to the scene of reported domestic violence. Any restraining order against domestic violence issued pursuant to this chapter may, upon request of the petitioner, be served upon the respondent by any law enforcement officer who is present at the scene of reported domestic violence involving the parties to the action. The moving party shall provide the officer with an endorsed copy of the order and a proof of service which the officer shall complete and transmit to the issuing court.

(b) Upon receipt of a copy of a restraining order issued pursuant to subdivision (a) of Section 546 of the Code of Civil Procedure, or paragraph (2) of subdivision (a) of Section 547 of the Code of Civil Procedure, and predicated on paragraph (2), (3), or (6) of subdivision (a) of Section 4359 of the Civil Code, together with the subsequent proof of service thereof, the local law enforcement agency having jurisdiction over the residence of the plaintiff shall immediately notify the Department of Justice regarding the name, race, date of birth, and other personal descriptive information as required by a form prescribed by the Department of Justice, the date of issuance of the order, and the duration of the order or its expiration date. However, proof of service of the restraining order shall not be required for purposes of this subdivision if the restraining order indicates on its face that both parties were personally present at the hearing where the order was issued and that, pursuant to subdivision (g), no proof of service is required.

The petitioner's failure to provide local law enforcement with personal descriptive information regarding the person restrained does not invalidate the restraining order.

(c) If a court issues a modification, extension, or termination of the order described in subdivision (b), the court shall notify the law enforcement agency having jurisdiction over the residence of the plaintiff. The law enforcement agency shall then immediately notify the Department of Justice.

(d) There shall be no civil liability on the part of, and no cause of action shall arise against, an employee of a local law enforcement agency or the Department of Justice, acting within the scope of his or her employment, if a person described in subdivision (g) of Section 12021 of the Penal Code unlawfully purchases or receives or attempts to purchase or receive a firearm and a person is injured by that firearm or a person who is otherwise entitled to receive a firearm is denied a firearm and either wrongful action is due to the failure of a court to provide the notification provided for in this subdivision.

(e) If any person named in a restraining order issued pursuant to this section has not been served personally with the order but has received actual notice of the existence and substance of that order through personal appearance in court to hear the terms of the order from the court, no additional proof of service shall be required for enforcement of that order.

(f) The court, in issuing a restraining order predicated on paragraph (2) of subdivision (a) of Section 547 of this code or on paragraph (2), (3), or (6) of subdivision (a) of Section 4359 of the Civil Code, and where both parties are present in court, shall inform both the petitioner and respondent of the terms of the order, including notice that the respondent is prohibited from purchasing or receiving or attempting to purchase or receive a firearm and including notice of the penalty for violation.

(g) The judicial forms for temporary restraining orders and restraining orders issued after a hearing shall contain a statement in substantially the following form:

"NO ADDITIONAL PROOF OF SERVICE SHALL BE REQUIRED IF THE FACE OF THIS FORM INDICATES THAT BOTH PARTIES ARE PERSONALLY PRESENT AT THE HEARING WHERE THE ORDER WAS ISSUED."

(h) It shall be a rebuttable presumption that the proof of service was signed on the date of service.

SEC. 4. Section 12021 of the Penal Code is amended to read:

12021. (a) Any person who has been convicted of a felony under the laws of the United States, of the State of California, or any other state, government, or country, or of an offense enumerated in Section 12001.6, or who is addicted to the use of any narcotic drug, who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(b) Notwithstanding the provisions of subdivision (a), any person who has been convicted of a felony or of an offense enumerated in Section 12001.6, when that conviction results from certification by the juvenile court for prosecution as an adult in an adult court under the provisions of Section 707 of the Welfare and Institutions Code, who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(c) Except as provided in subdivision (a), any person who has been convicted of a misdemeanor violation of Section 136.5, 140,

171b, 171c, 171d, 241, 243, 244.5, 245, 245.5, 246.3, 247, 417, 417.2, 626.9, subdivision (b) or (d) of Section 12034, subdivision (a) of Section 12100, 12320, or 12590 and who within 10 years of the conviction, owns, or has in his or her possession or under his or her custody or control, any firearm is guilty of a public offense, which shall be punishable by imprisonment in the state prison or in the county jail not exceeding one year or by a fine not exceeding one thousand dollars ($1,000), or by both the fine and imprisonment. The court shall, on forms prescribed by the Department of Justice, notify the department of persons subject to this subdivision.

(d) Any person who, as an express condition of probation, is prohibited or restricted from owning, possessing, controlling, receiving, or purchasing a firearm and who owns, or has in his or her possession or under his or her custody or control, any firearm but who is not subject to subdivision (a) or (c) is guilty of a public offense, which shall be punishable by imprisonment in the state prison or in the county jail not exceeding one year or by a fine not exceeding one thousand dollars ($1,000), or by both the fine and imprisonment. The court shall, on forms provided by the Department of Justice, notify the department of persons subject to this subdivision. The notice shall include a copy of the order of probation and a copy of any minute order or abstract reflecting the order and conditions of probation.

(e) Any person who (1) is alleged to have committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, (2) is found to be a fit and proper subject to be dealt with under the juvenile court law, and (3) is subsequently adjudged a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code because the person committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code shall not own, or have in his or her possession or under his or her custody or control, any firearm until the age of 30 years. A violation of this subdivision shall be punishable by imprisonment in the state prison or in the county jail not exceeding one year or by a fine not exceeding one thousand dollars ($1,000), or by both the fine and imprisonment. The juvenile court shall, on forms prescribed by the Department of Justice, notify the department of persons subject to this subdivision. Notwithstanding any other provision of law, the forms required to be submitted to the department pursuant to this subdivision may be used to determine eligibility to acquire a firearm.

(f) Subdivision (a) shall not apply to a person who has been convicted of a felony under the laws of the United States unless:

(1) Conviction of a like offense under California law can only result in imposition of felony punishment; or

(2) The defendant was sentenced to a federal correctional facility for more than 30 days, or received a fine of more than one thousand dollars ($1,000), or received both such punishments.

(g) Every person who purchases or receives, or attempts to

purchase or receive, a firearm knowing that he or she is subject to a restraining order issued pursuant to subdivision (a) of Section 546 of the Code of Civil Procedure, or paragraph (2) of subdivision (a) of Section 547 of the Code of Civil Procedure, and predicated on paragraph (2), (3), or (6) of subdivision (a) of Section 4359 of the Civil Code, is guilty of a public offense, which shall be punishable by imprisonment in the state prison or in a county jail not exceeding one year, or by a fine not exceeding one thousand dollars ($1,000), or both the fine and imprisonment. This subdivision does not apply unless the copy of the restraining order personally served on the person against whom the restraining order is issued contains a notice in bold print stating (1) that the person is prohibited from purchasing or receiving or attempting to purchase or receive a firearm and (2) specifying the penalties for violating this subdivision, or a court has provided actual verbal notice of the firearm prohibition and penalty as provided in subdivision (f) of Section 550 of the Code of Civil Procedure. However, this subdivision does not apply if the firearm is received as part of the disposition of community property pursuant to Section 4800 of the Civil Code.

SEC. 5. Section 12076 of the Penal Code is amended to read:

12076. (a) The purchaser or transferee of any firearm shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name and affix his or her residence address and date of birth to the register in quadruplicate. The salesperson shall affix his or her signature to the register in quadruplicate as a witness to the signature and identification of the purchaser or transferee. Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the register and any person violating any provision of this section is guilty of a misdemeanor.

(b) Two copies of the original sheet of the register shall, on the date of sale or transfer, be placed in the mail, postage prepaid, and properly addressed to the Department of Justice in Sacramento. The third copy of the original shall be mailed, postage prepaid, to the chief of police, or other head of the police department, of the city or county wherein the sale or transfer is made. Where the sale or transfer is made in a district where there is no municipal police department, the third copy of the original sheet shall be mailed to the sheriff of the county wherein the sale or transfer is made.

The third copy for firearms, other than pistols, revolvers, or other firearms capable of being concealed upon the person shall be destroyed within five days of receipt and no information shall be compiled therefrom.

(c) The department shall examine its records, as well as those records that it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser or

transferee is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

If the department determines that the purchaser or transferee is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, it shall immediately notify the dealer and the chief of the police department of the city or county in which the sale or transfer was made, or if the sale or transfer was made in a district in which there is no municipal police department, the sheriff of the county in which the sale or transfer was made, of that fact.

If the department determines that the copies of the register submitted to it pursuant to subdivision (b) contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or transferee or the pistol, revolver, or other firearm to be purchased or transferred, or if any fee required pursuant to subdivision (d) is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to subdivision (d), or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased or transferred, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

(d) The Department of Justice may charge the dealer a fee sufficient to reimburse the following:

(1) The department for the cost of furnishing this information. All money received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Special Account of the General Fund, which is hereby created, to be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to this section.

(2) Local mental health facilities for state-mandated local costs resulting from the reporting requirements imposed by the amendments to Section 8103 of the Welfare and Institutions Code, made by the act which also added this paragraph.

(3) The State Department of Mental Health for the costs resulting from the requirements imposed by the amendments to Section 8104 of the Welfare and Institutions Code made by the act which also added this paragraph.

(4) Local public mental hospitals, sanitariums, and institutions for state-mandated local costs resulting from the reporting requirements imposed by the amendments to Section 8105 of the Welfare and Institutions Code made by the act which also added this paragraph.

(5) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (b) of Section 550 of the Code of Civil Procedure created by the act

which also added this paragraph.

The fee established pursuant to this subdivision shall not exceed the sum of the actual processing costs of the department, the estimated reasonable costs of the local mental health facilities for complying with the reporting requirements imposed by the act which added paragraph (2) of this subdivision, the costs of the State Department of Mental Health for complying with the requirements imposed by the act which added paragraph (3) to this subdivision, the estimated reasonable costs of local public mental hospitals, sanitariums, and institutions for complying with the reporting requirements imposed by the act which added paragraph (4) to this subdivision, and the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (b) of Section 550 of the Code of Civil Procedure created by the act which added paragraph (5) to this subdivision.

(e) Whenever the Department of Justice acts pursuant to this section as it pertains to firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, its acts or omissions shall be deemed to be discretionary within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

SEC. 5.5. Section 12076 of the Penal Code is amended to read:

12076. (a) The purchaser or transferee of any firearm shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name and affix his or her residence address and date of birth to the register in quadruplicate. The salesperson shall affix his or her signature to the register in quadruplicate as a witness to the signature and identification of the purchaser or transferee. Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the register and any person violating any provision of this section is guilty of a misdemeanor.

(b) Two copies of the original sheet of the register, on the date of sale or transfer, shall be placed in the mail, postage prepaid, and properly addressed to the Department of Justice in Sacramento. The third copy of the original shall be mailed, postage prepaid, to the chief of police, or other head of the police department, of the city or county wherein the sale or transfer is made. Where the sale or transfer is made in a district where there is no municipal police department, the third copy of the original sheet shall be mailed to the sheriff of the county wherein the sale or transfer is made.

The third copy for firearms, other than pistols, revolvers, or other firearms capable of being concealed upon the person shall be destroyed within five days of receipt and no information shall be compiled therefrom.

(c) The department shall examine its records, as well as those

records that it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser or transferee is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

If the department determines that the purchaser or transferee is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, it shall immediately notify the dealer and the chief of the police department of the city or county in which the sale or transfer was made, or if the sale or transfer was made in a district in which there is no municipal police department, the sheriff of the county in which the sale or transfer was made, of that fact.

If the department determines that the copies of the register submitted to it pursuant to subdivision (b) contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or transferee or the pistol, revolver, or other firearm to be purchased or transferred, or if any fee required pursuant to subdivision (d) is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to subdivision (d), or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased or transferred, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

(d) The Department of Justice may charge the dealer a fee sufficient to reimburse all of the following:

(1) (A) The department for the cost of furnishing this information. All money received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Special Account of the General Fund, which is hereby created, to be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to this section.

(B) The department for the cost of meeting its obligations under paragraph (2) of subdivision (b) of Section 8100 of the Welfare and Institutions Code.

(2) Local mental health facilities for state-mandated local costs resulting from the reporting requirements imposed by the amendments to Section 8103 of the Welfare and Institutions Code, made by the act which also added this paragraph.

(3) The State Department of Mental Health for the costs resulting from the requirements imposed by the amendments to Section 8104 of the Welfare and Institutions Code made by the act which also added this paragraph.

(4) Local mental hospitals, sanitariums, and institutions for state-mandated local costs resulting from the reporting

requirements imposed by Section 8105 of the Welfare and Institutions Code.

(5) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (b) of Section 550 of the Code of Civil Procedure created by the act which also added this paragraph.

(6) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code.

The fee established pursuant to this subdivision shall not exceed the sum of the actual processing costs of the department, the estimated reasonable costs of the local mental health facilities for complying with the reporting requirements imposed by the act which added paragraph (2) to this subdivision, the costs of the State Department of Mental Health for complying with the requirements imposed by the act which added paragraph (3) to this subdivision, the estimated reasonable costs of local mental hospitals, sanitariums, and institutions for complying with the reporting requirements imposed by the act which added paragraph (4) to this subdivision, the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (b) of Section 550 of the Code of Civil Procedure created by the act which added paragraph (5) to this subdivision, and the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code created by the act which added paragraph (6) to this subdivision.

(e) Whenever the Department of Justice acts pursuant to this section as it pertains to firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, its acts or omissions shall be deemed to be discretionary within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

SEC. 6. Section 12076.1 of the Penal Code is repealed.

SEC. 7. The Judicial Council shall revise restraining order form or forms issued due to domestic violence, as defined in Section 542 of the Code of Civil Procedure, to contain a notice in bold print which will inform a respondent that he or she is prohibited from purchasing or receiving a firearm and of the penalty for violating this prohibition.

SEC. 8. Section 1.5 of this bill incorporates amendments to Section 546 of the Code of Civil Procedure proposed by both this bill and AB 363. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, but this bill becomes operative first, (2) each bill amends Section 546 of the Code of Civil Procedure, and (3) this bill is enacted after AB 363, in which case Section 1 of this bill shall remain operative only until the operative date of AB 363, at which time Section 1.5 of this bill shall become operative.

SEC. 9. Section 5.5 of this bill incorporates amendments to Section 12076 of the Penal Code proposed by both this bill and AB 664. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, but this bill becomes operative first, (2) each bill amends Section 12076 of the Penal Code, and (3) this bill is enacted after AB 664, in which case Section 12076 of the Penal Code, as amended by Section 5 of this bill, shall remain operative only until the operative date of AB 664, at which time Section 5.5 of this bill shall become operative.

SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to control domestic violence, this act must take effect immediately.

CHAPTER 954

An act to amend Sections 12076, 12276, 12276.5, 12280, and 12285 of, and to add Section 12289 to, the Penal Code, relating to firearms.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 12076 of the Penal Code is amended to read:

12076. (a) The purchaser or transferee of any firearm shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require

him or her to sign his or her current legal name and affix his or her residence address and date of birth to the register in quadruplicate. The salesperson shall affix his or her signature to the register in quadruplicate as a witness to the signature and identification of the purchaser or transferee. Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the register and any person violating any provision of this section is guilty of a misdemeanor.

(b) Two copies of the original sheet of the register shall, on the date of sale or transfer, be placed in the mail, postage prepaid, and properly addressed to the Department of Justice in Sacramento. The third copy of the original shall be mailed, postage prepaid, to the chief of police, or other head of the police department, of the city or county wherein the sale or transfer is made. Where the sale or transfer is made in a district where there is no municipal police department, the third copy of the original sheet shall be mailed to the sheriff of the county wherein the sale or transfer is made.

The third copy for firearms, other than pistols, revolvers, or other firearms capable of being concealed upon the person shall be destroyed within five days of receipt and no information shall be compiled therefrom.

(c) The department shall examine its records, as well as those records that it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser or transferee is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

If the department determines that the purchaser or transferee is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, it shall immediately notify the dealer of that fact.

If the department determines that the copies of the register submitted to it pursuant to subdivision (b) contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or transferee or the pistol, revolver, or other firearm to be purchased or transferred, or if any fee required pursuant to subdivision (d) is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to subdivision (d), or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased or transferred, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

(d) The Department of Justice may charge the dealer a fee sufficient to reimburse the following:

(1) The department for the cost of furnishing this information. All money received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Special Account of the General Fund, which is hereby created, to be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to this section and Section 12289.

(2) Local mental health facilities for state-mandated local costs resulting from the reporting requirements imposed by the amendments to Section 8103 of the Welfare and Institutions Code, made by the act which also added this paragraph.

(3) The State Department of Mental Health for the costs resulting from the requirements imposed by the amendments to Section 8104 of the Welfare and Institutions Code made by the act which also added this paragraph.

(4) Local public mental hospitals, sanitariums, and institutions for state-mandated local costs resulting from the reporting requirements imposed by the amendments to Section 8105 of the Welfare and Institutions Code made by the act which also added this paragraph.

The fee established pursuant to this subdivision shall not exceed the sum of the actual processing costs of the department, the estimated reasonable costs of the local mental health facilities for complying with the reporting requirements imposed by the act which added paragraph (2) of this subdivision, the costs of the State Department of Mental Health for complying with the requirements imposed by the act which added paragraph (3) to this subdivision, and the estimated reasonable costs of local public mental hospitals, sanitariums, and institutions for complying with the reporting requirements imposed by the act which added paragraph (4) to this subdivision.

(e) Whenever the Department of Justice acts pursuant to this section as it pertains to firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, its acts or omissions shall be deemed to be discretionary within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

SEC. 1.5. Section 12076 of the Penal Code is amended to read:

12076. (a) The purchaser or transferee of any firearm shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name and affix his or her residence address and date of birth to the register in quadruplicate. The salesperson shall affix his or her signature to the register in quadruplicate as a witness to the signature and identification of the purchaser or transferee. Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the register and any person violating any provision of this section is guilty of a misdemeanor.

(b) Two copies of the original sheet of the register shall, on the date of sale or transfer, be placed in the mail, postage prepaid, and properly addressed to the Department of Justice in Sacramento. The third copy of the original shall be mailed, postage prepaid, to the chief of police, or other head of the police department, of the city or county wherein the sale or transfer is made. Where the sale or transfer is made in a district where there is no municipal police department, the third copy of the original sheet shall be mailed to the sheriff of the county wherein the sale or transfer is made.

The third copy for firearms, other than pistols, revolvers, or other firearms capable of being concealed upon the person shall be destroyed within five days of receipt and no information shall be compiled therefrom.

(c) The department shall examine its records, as well as those records that it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser or transferee is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

If the department determines that the purchaser or transferee is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, it shall immediately notify the dealer and the chief of the police department of the city or county in which the sale or transfer was made, or if the sale or transfer was made in a district in which there is no municipal police department, the sheriff of the county in which the sale or transfer was made, of that fact.

If the department determines that the copies of the register submitted to it pursuant to subdivision (b) contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or transferee or the pistol, revolver, or other firearm to be purchased or transferred, or if any fee required pursuant to subdivision (d) is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to subdivision (d), or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased or transferred, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

(d) The Department of Justice may charge the dealer a fee sufficient to reimburse the following:

(1) The department for the cost of furnishing this information. All money received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Special Account of the General Fund, which is hereby created, to be available, upon appropriation by the Legislature, for expenditure by the department

to offset the costs incurred pursuant to this section and Section 12289.

(2) Local mental health facilities for state-mandated local costs resulting from the reporting requirements imposed by the amendments to Section 8103 of the Welfare and Institutions Code, made by the act which also added this paragraph.

(3) The State Department of Mental Health for the costs resulting from the requirements imposed by the amendments to Section 8104 of the Welfare and Institutions Code made by the act which also added this paragraph.

(4) Local public mental hospitals, sanitariums, and institutions for state-mandated local costs resulting from the reporting requirements imposed by the amendments to Section 8105 of the Welfare and Institutions Code made by the act which also added this paragraph.

(5) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (b) of Section 550 of the Code of Civil Procedure created by the act which also added this paragraph.

The fee established pursuant to this subdivision shall not exceed the sum of the actual processing costs of the department, the estimated reasonable costs of the local mental health facilities for complying with the reporting requirements imposed by the act which added paragraph (2) of this subdivision, the costs of the State Department of Mental Health for complying with the requirements imposed by the act which added paragraph (3) to this subdivision, the estimated reasonable costs of local public mental hospitals, sanitariums, and institutions for complying with the reporting requirements imposed by the act which added paragraph (4) to this subdivision, and the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (b) of Section 550 of the Code of Civil Procedure created by the act which added paragraph (5) to this subdivision.

(e) Whenever the Department of Justice acts pursuant to this section as it pertains to firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, its acts or omissions shall be deemed to be discretionary within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

SEC. 1.6. Section 12076 of the Penal Code is amended to read:

12076. (a) The purchaser or transferee of any firearm shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name and affix his or her residence address and date of birth to the register in quadruplicate. The salesperson shall affix his or her signature to the register in quadruplicate as a witness to the signature and identification of the purchaser or transferee. Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or

knowingly omitting any information required to be provided for the register and any person violating any provision of this section is guilty of a misdemeanor.

(b) Two copies of the original sheet of the register, on the date of sale or transfer, shall be placed in the mail, postage prepaid, and properly addressed to the Department of Justice in Sacramento. The third copy of the original shall be mailed, postage prepaid, to the chief of police, or other head of the police department, of the city or county wherein the sale or transfer is made. Where the sale or transfer is made in a district where there is no municipal police department, the third copy of the original sheet shall be mailed to the sheriff of the county wherein the sale or transfer is made.

The third copy for firearms, other than pistols, revolvers, or other firearms capable of being concealed upon the person shall be destroyed within five days of receipt and no information shall be compiled therefrom.

(c) The department shall examine its records, as well as those records that it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser or transferee is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

If the department determines that the purchaser or transferee is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, it shall immediately notify the dealer of that fact.

If the department determines that the copies of the register submitted to it pursuant to subdivision (b) contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or transferee or the pistol, revolver, or other firearm to be purchased or transferred, or if any fee required pursuant to subdivision (d) is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to subdivision (d), or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased or transferred, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

(d) The Department of Justice may charge the dealer a fee sufficient to reimburse all of the following:

(1) (A) The department for the cost of furnishing this information. All money received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Special Account of the General Fund, which is hereby created, to be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to this section

and Section 12289.

(B) The department for the cost of meeting its obligations under paragraph (2) of subdivision (b) of Section 8100 of the Welfare and Institutions Code.

(2) Local mental health facilities for state-mandated local costs resulting from the reporting requirements imposed by the amendments to Section 8103 of the Welfare and Institutions Code, made by the act which also added this paragraph.

(3) The State Department of Mental Health for the costs resulting from the requirements imposed by the amendments to Section 8104 of the Welfare and Institutions Code made by the act which also added this paragraph.

(4) Local mental hospitals, sanitariums, and institutions for state-mandated local costs resulting from the reporting requirements imposed by Section 8105 of the Welfare and Institutions Code.

(5) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code.

The fee established pursuant to this subdivision shall not exceed the sum of the actual processing costs of the department, the estimated reasonable costs of the local mental health facilities for complying with the reporting requirements imposed by the act which added paragraph (2) to this subdivision, the costs of the State Department of Mental Health for complying with the requirements imposed by the act which added paragraph (3) to this subdivision, the estimated reasonable costs of local mental hospitals, sanitariums, and institutions for complying with the reporting requirements imposed by the act which added paragraph (4) to this subdivision, and the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code created by the act which added paragraph (5) to this subdivision.

(e) Whenever the Department of Justice acts pursuant to this section as it pertains to firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, its acts or omissions shall be deemed to be discretionary within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

SEC. 1.7. Section 12076 of the Penal Code is amended to read:

12076. (a) The purchaser or transferee of any firearm shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name and affix his or her residence address and date of birth to the register in quadruplicate. The salesperson shall affix his or her signature to the register in quadruplicate as a witness to the signature and identification of the purchaser or transferee. Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or

knowingly omitting any information required to be provided for the register and any person violating any provision of this section is guilty of a misdemeanor.

(b) Two copies of the original sheet of the register, on the date of sale or transfer, shall be placed in the mail, postage prepaid, and properly addressed to the Department of Justice in Sacramento. The third copy of the original shall be mailed, postage prepaid, to the chief of police, or other head of the police department, of the city or county wherein the sale or transfer is made. Where the sale or transfer is made in a district where there is no municipal police department, the third copy of the original sheet shall be mailed to the sheriff of the county wherein the sale or transfer is made.

The third copy for firearms, other than pistols, revolvers, or other firearms capable of being concealed upon the person shall be destroyed within five days of receipt and no information shall be compiled therefrom.

(c) The department shall examine its records, as well as those records that it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser or transferee is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

If the department determines that the purchaser or transferee is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, it shall immediately notify the dealer and the chief of the police department of the city or county in which the sale or transfer was made, or if the sale or transfer was made in a district in which there is no municipal police department, the sheriff of the county in which the sale or transfer was made, of that fact.

If the department determines that the copies of the register submitted to it pursuant to subdivision (b) contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or transferee or the pistol, revolver, or other firearm to be purchased or transferred, or if any fee required pursuant to subdivision (d) is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to subdivision (d), or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased or transferred, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

(d) The Department of Justice may charge the dealer a fee sufficient to reimburse all of the following:

(1) (A) The department for the cost of furnishing this information. All money received by the department pursuant to this

section shall be deposited in the Dealers' Record of Sale Special Account of the General Fund, which is hereby created, to be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to this section and Section 12289.

(B) The department for the cost of meeting its obligations under paragraph (2) of subdivision (b) of Section 8100 of the Welfare and Institutions Code.

(2) Local mental health facilities for state-mandated local costs resulting from the reporting requirements imposed by the amendments to Section 8103 of the Welfare and Institutions Code, made by the act which also added this paragraph.

(3) The State Department of Mental Health for the costs resulting from the requirements imposed by the amendments to Section 8104 of the Welfare and Institutions Code made by the act which also added this paragraph.

(4) Local mental hospitals, sanitariums, and institutions for state-mandated local costs resulting from the reporting requirements imposed by Section 8105 of the Welfare and Institutions Code.

(5) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (b) of Section 550 of the Code of Civil Procedure created by the act which also added this paragraph.

(6) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code.

The fee established pursuant to this subdivision shall not exceed the sum of the actual processing costs of the department, the estimated reasonable costs of the local mental health facilities for complying with the reporting requirements imposed by the act which added paragraph (2) to this subdivision, the costs of the State Department of Mental Health for complying with the requirements imposed by the act which added paragraph (3) to this subdivision, the estimated reasonable costs of local mental hospitals, sanitariums, and institutions for complying with the reporting requirements imposed by the act which added paragraph (4) to this subdivision, the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (b) of Section 550 of the Code of Civil Procedure created by the act which added paragraph (5) to this subdivision, and the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code created by the act which added paragraph (6) to this subdivision.

(e) Whenever the Department of Justice acts pursuant to this section as it pertains to firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, its acts or omissions shall be deemed to be discretionary within the meaning of

the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

SEC. 2. Section 12276 of the Penal Code is amended to read:

12276. As used in this chapter, "assault weapon" shall mean the following designated semiautomatic firearms:

(a) All of the following specified rifles:

(1) All AK series including, but not limited to, the models identified as follows:

(A) Made in China AK, AKM, AKS, AK47, AK47S, 56, 56S, 84S, and 86S.

(B) Norinco 56, 56S, 84S, and 86S.

(C) Poly Technologies AKS and AK47.

(D) MAADI AK47 and ARM.

(2) UZI and Galil.

(3) Baretta AR-70.

(4) CETME Sporter.

(5) Colt AR-15 series.

(6) Daewoo K-1, K-2, Max 1, Max 2, AR 100, and AR110C.

(7) Fabrique Nationale FAL, LAR, FNC, 308 Match, and Sporter.

(8) MAS 223.

(9) HK-91, HK-93, HK-94, HK-PSG-1.

(10) The following MAC types:

(A) RPB Industries Inc. sM10 and sM11.

(B) SWD Incorporated M11.

(11) SKS with detachable magazine.

(12) SIG AMT, PE-57, SG 550, SG 551.

(13) Springfield Armory BM59 AND SAR-48.

(14) Sterling MK-6.

(15) Steyer AUG.

(16) Valmet M62S, M71S, and M78S.

(17) Armalite AR-180.

(18) Bushmaster Assault Rifle.

(19) Calico M-900.

(20) J&R ENG M-68.

(21) Weaver Arms Nighthawk.

(b) All of the following specified pistols:

(1) UZI.

(2) Encom MP-9 and MP-45.

(3) The following MAC types:

(A) RPB Industries Inc. sM10 and sM11.

(B) SWD Incorporated M-11.

(C) Advance Armament Inc. M-11.

(D) Military Armament Corp. Ingram M-11.

(4) Intratec TEC-9.

(5) Sites Spectre.

(6) Sterling MK-7.

(7) Calico M-950.

(8) Bushmaster Pistol.

(c) All of the following specified shotguns:

(1) Franchi SPAS 12 and LAW 12.
(2) Striker 12.
(3) The Streetsweeper type S/S Inc. SS/12.

(d) Any firearm declared by the court pursuant to Section 12276.5 to be an assault weapon that is specified as an assault weapon in a list promulgated pursuant to Section 12276.5.

(e) The term "series" includes all other models that are only variations, with minor differences, of those models listed in subdivision (a), regardless of the manufacturer.

(f) This section is declaratory of existing law, as amended, and a clarification of the law and the Legislature's intent which bans the weapons enumerated in this section, the weapons included in the list promulgated by the Attorney General pursuant to Section 12276.5, and any other models which are only variations of those weapons with minor differences, regardless of the manufacturer. The Legislature has defined assault weapons as the types, series, and models listed in this section because it was the most effective way to identify and restrict a specific class of semiautomatic weapons.

SEC. 3. Section 12276.5 of the Penal Code is amended to read:

12276.5. (a) Upon request by the Attorney General filed in a verified petition in a superior court of a county with a population of more than 1,000,000, the superior court shall issue a declaration of temporary suspension of the manufacture, sale, distribution, transportation, or importation into the state, or the giving or lending of a firearm alleged to be an assault weapon within the meaning of Section 12276 because the firearm is either of the following:

(1) Another model by the same manufacturer or a copy by another manufacturer of an assault weapon listed in subdivision (a), (b), or (c) of Section 12276 which is identical to one of the assault weapons listed in those subdivisions except for slight modifications or enhancements including, but not limited to: a folding or retractable stock; adjustable sight; case deflector for left-handed shooters; shorter barrel; wooden, plastic or metal stock; larger magazine size; different caliber provided that the caliber exceeds .22 rimfire; or bayonet mount. The court shall strictly construe this paragraph so that a firearm which is merely similar in appearance but not a prototype or copy cannot be found to be within the meaning of this paragraph.

(2) A firearm first manufactured or sold to the general public in California after June 1, 1989, which has been redesigned, renamed, or renumbered from one of the firearms listed in subdivision (a), (b), or (c) of Section 12276, or which is manufactured or sold by another company under a licensing agreement to manufacture or sell one of the firearms listed in subdivision (a), (b), or (c) of Section 12276, regardless of the company of production or distribution, or the country of origin.

(b) Upon the issuance of a declaration of temporary suspension by the superior court and after the Attorney General has completed the notice requirements of subdivisions (c) and (d), the provisions of

subdivision (a) of Section 12280 shall apply with respect to those weapons.

(c) Upon declaration of temporary suspension, the Attorney General shall immediately notify all police, sheriffs, district attorneys, and those requesting notice pursuant to subdivision (d), shall notify industry and association publications for those who manufacture, sell, or use firearms, and shall publish notice in not less than 10 newspapers of general circulation in geographically diverse sections of the state of the fact that the declaration has been issued.

(d) The Attorney General shall maintain a list of any persons who request to receive notice of any declaration of temporary suspension and shall furnish notice under subdivision (c) to all these persons immediately upon a superior court declaration. Notice shall also be furnished by the Attorney General by certified mail, return receipt requested (or substantial equivalent if the person who is to receive the notice resides outside the United States), to any known manufacturer and California distributor of the weapon which is the subject of the temporary suspension order or their California statutory agent for service. The notice shall be deemed effective upon mailing.

(e) After issuing a declaration of temporary suspension under this section, the superior court shall set a date for hearing on a permanent declaration that the weapon is an assault weapon. The hearing shall be set no later than 30 days from the date of issuance of the declaration of temporary suspension. The hearing may be continued for good cause thereafter. Any manufacturer or California distributor of the weapon which is the subject of the temporary suspension order has the right, within 20 days of notification of the issuance of the order, to intervene in the action. Any manufacturer or California distributor who fails to timely exercise its right of intervention, or any other person who manufactures, sells, or owns the assault weapon may, in the court's discretion, thereafter join the action as amicus curiae.

(f) At the hearing, the burden of proof is upon the Attorney General to show by a preponderance of evidence that the weapon which is the subject of the declaration of temporary suspension is an assault weapon. If the court finds the weapon to be an assault weapon, it shall issue a declaration that it is an assault weapon under Section 12276. Any party to the matter may appeal the court's decision. A declaration that the weapon is an assault weapon shall remain in effect during the pendency of the appeal unless ordered otherwise by the appellate court.

(g) The Attorney General shall prepare a description for identification purposes, including a picture or diagram, of each assault weapon listed in Section 12276, and any firearm declared to be an assault weapon pursuant to this section, and shall distribute the description to all law enforcement agencies responsible for enforcement of this chapter. Those law enforcement agencies shall make the description available to all agency personnel.

(h) The Attorney General shall promulgate a list that specifies all firearms designated as assault weapons in Section 12276 or declared to be assault weapons pursuant to this section. The Attorney General shall file that list with the Secretary of State for publication in the California Code of Regulations. Any declaration that a specified firearm is an assault weapon shall be implemented by the Attorney General who, within 90 days, shall promulgate an amended list which shall include the specified firearm declared to be an assault weapon. The Attorney General shall file the amended list with the Secretary of State for publication in the California Code of Regulations.

Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code, pertaining to the adoption of rules and regulations, shall not apply to any list of assault weapons promulgated pursuant to this section.

(i) The Attorney General shall adopt those rules and regulations that may be necessary or proper to carry out the purposes and intent of this chapter.

SEC. 4. Section 12280 of the Penal Code is amended to read:

12280. (a) (1) Any person who, within this state, manufactures or causes to be manufactured, distributes, transports, or imports into the state, keeps for sale, or offers or exposes for sale, or who gives or lends any assault weapon, except as provided by this chapter, is guilty of a felony, and upon conviction shall be punished by imprisonment in the state prison for four, six, or eight years.

(2) In addition and consecutive to the punishment imposed under paragraph (1), any person who transfers, lends, sells, or gives any assault weapon to a minor in violation of paragraph (1) shall receive an enhancement of one year.

(b) Except as provided in Section 12288, any person who, within this state, possesses any assault weapon, except as provided in this chapter, is guilty of a public offense and upon conviction shall be punished by imprisonment in the state prison, or in a county jail, not exceeding one year. However, if the person presents proof that he or she lawfully possessed the assault weapon prior to June 1, 1989, or prior to the date it was specified as an assault weapon, and has since either registered the firearm and any other lawfully obtained firearm subject to this chapter pursuant to Section 12285 or relinquished them pursuant to Section 12288, a first-time violation of this subdivision shall be an infraction punishable by a fine of up to five hundred dollars ($500), but not less than three hundred fifty dollars ($350), if the person has otherwise possessed the firearm in compliance with subdivision (c) of Section 12285. In these cases, the firearm shall be returned unless the court finds in the interest of public safety, after notice and hearing, that the assault weapon should be destroyed pursuant to Section 12028.

(c) Notwithstanding Section 654 or any other provision of law, any person who commits another crime while violating this section may receive an additional, consecutive punishment of one year for violating this section in addition and consecutive to the punishment,

including enhancements, which is prescribed for the other crime.

(d) Subdivisions (a) and (b) shall not apply to the sale to, purchase by, or possession of assault weapons by the Department of Justice, police departments, sheriffs' offices, marshals' offices, the Department of Corrections, the California Highway Patrol, the California State Police, district attorneys' offices, or the military or naval forces of this state or of the United States for use in the discharge of their official duties; nor shall anything in this chapter prohibit the possession or use of assault weapons by sworn members of these agencies when on duty and the use is within the scope of their duties.

(e) Subdivision (b) shall not apply to the possession of an assault weapon by any person during the 1990 calendar year, or during the 90-day period immediately after the date it was specified as an assault weapon, if all of the following are applicable:

(1) The person is eligible under this chapter to register the particular assault weapon by January 1, 1991.

(2) The person lawfully possessed the particular assault weapon described in paragraph (1) prior to June 1, 1989, or prior to the date it was specified as an assault weapon.

(3) The person is otherwise in compliance with this chapter.

(f) Subdivisions (a) and (b) shall not apply to the manufacture by persons who are issued permits pursuant to Section 12287 of assault weapons for sale to the following:

(1) Exempt entities listed in subdivision (d).

(2) Entities and persons who have been issued permits pursuant to Section 12286.

(3) Entities outside the state who have, in effect, a federal firearms dealer's license solely for the purpose of distribution to an entity listed in paragraphs (4) to (6), inclusive.

(4) Federal military and law enforcement agencies.

(5) Law enforcement and military agencies of other states.

(6) Foreign governments and agencies approved by the United States State Department.

(g) As used in this chapter, the date a firearm is "specified as an assault weapon" is the earliest of the following:

(1) The effective date of an amendment to Section 12276 which adds the designation of the specified firearm.

(2) The effective date of the list promulgated pursuant to Section 12276.5 which adds or changes the designation of the specified firearm.

SEC. 4.5. Section 12280 of the Penal Code is amended to read:

12280. (a) (1) Any person who, within this state, manufactures or causes to be manufactured, distributes, transports, or imports into the state, keeps for sale, or offers or exposes for sale, or who gives or lends any assault weapon, except as provided by this chapter, is guilty of a felony, and upon conviction shall be punished by imprisonment in the state prison for four, six, or eight years.

(2) In addition and consecutive to the punishment imposed under

paragraph (1), any person who transfers, lends, sells, or gives any assault weapon to a minor in violation of paragraph (1) shall receive an enhancement of one year.

(b) Except as provided in Section 12288, any person who, within this state, possesses any assault weapon, except as provided in this chapter, is guilty of a public offense and upon conviction shall be punished by imprisonment in the state prison, or in a county jail, not exceeding one year. However, if the person presents proof that he or she lawfully possessed the assault weapon prior to June 1, 1989, or prior to the date it was specified as an assault weapon, and has since either registered the firearm and any other lawfully obtained firearm subject to this chapter pursuant to Section 12285 or relinquished them pursuant to Section 12288, a first-time violation of this subdivision shall be an infraction punishable by a fine of up to five hundred dollars ($500), but not less than three hundred fifty dollars ($350), if the person has otherwise possessed the firearm in compliance with subdivision (c) of Section 12285. In these cases, the firearm shall be returned unless the court finds in the interest of public safety, after notice and hearing, that the assault weapon should be destroyed pursuant to Section 12028.

(c) Notwithstanding Section 654 or any other provision of law, any person who commits another crime while violating this section may receive an additional, consecutive punishment of one year for violating this section in addition and consecutive to the punishment, including enhancements, which is prescribed for the other crime.

(d) Subdivisions (a) and (b) shall not apply to the sale to, purchase by, or possession of assault weapons by the Department of Justice, police departments, sheriffs' offices, marshals' offices, the Department of Corrections, the California Highway Patrol, the California State Police, district attorneys' offices, or the military or naval forces of this state or of the United States for use in the discharge of their official duties; nor shall anything in this chapter prohibit the possession or use of assault weapons by sworn members of these agencies when on duty and the use is within the scope of their duties.

(e) Subdivision (b) shall not apply to the possession of an assault weapon by any person during the 1990 calendar year, or during the 90-day period immediately after the date it was specified as an assault weapon, if all of the following are applicable:

(1) The person is eligible under this chapter to register the particular assault weapon by January 1, 1991.

(2) The person lawfully possessed the particular assault weapon described in paragraph (1) prior to June 1, 1989, or prior to the date it was specified as an assault weapon.

(3) The person is otherwise in compliance with this chapter.

(f) Subdivisions (a) and (b) shall not apply to the manufacture by persons who are issued permits pursuant to Section 12287 of assault weapons for sale to the following:

(1) Exempt entities listed in subdivision (d).

(2) Entities and persons who have been issued permits pursuant to Section 12286.

(3) Entities outside the state who have, in effect, a federal firearms dealer's license solely for the purpose of distribution to an entity listed in paragraphs (4) to (6), inclusive.

(4) Federal military and law enforcement agencies.

(5) Law enforcement and military agencies of other states.

(6) Foreign governments and agencies approved by the United States State Department.

(g) Subdivision (a) shall not apply to a person who is the executor or administrator of an estate that includes an assault weapon registered under Section 12285 which is disposed of as authorized by the probate court, if the disposition is otherwise permitted by this chapter.

(h) Subdivision (b) shall not apply to a person who is the executor or administrator of an estate that includes an assault weapon registered under Section 12285, if the assault weapon is possessed at a place set forth in paragraph (1) of subdivision (c) of Section 12285 or as authorized by the probate court.

(i) Subdivision (a) shall not apply to:

(1) A person who lawfully possesses and has registered an assault weapon pursuant to this chapter who lends that assault weapon to another if all the following apply:

(A) The person to whom the assault weapon is lent is 18 years of age or over and is not in a class of persons prohibited from possessing firearms by virtue of Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person to whom the assault weapon is lent remains in the presence of the registered possessor of the assault weapon.

(C) The assault weapon is possessed at any of the following locations:

(i) While on a target range which holds a regulatory or business license for the purpose of practicing shooting at that target range.

(ii) While on the premises of a target range of a public or private club or organization organized for the purpose of practicing shooting at targets.

(iii) While attending any exhibition, display, or educational project which is about firearms and which is sponsored by, conducted under the auspices of, or approved by a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms.

(2) The return of an assault weapon to the registered possessor which is lent by the same pursuant to paragraph (1).

(j) Subdivision (b) shall not apply to the possession of an assault weapon by a person to whom an assault weapon is lent pursuant to subdivision (i).

(k) As used in this chapter, the date a firearm is "specified as an assault weapon" is the earliest of the following:

(1) The effective date of an amendment to Section 12276 which

adds the designation of the specified firearm.

(2) The effective date of the list promulgated pursuant to Section 12276.5 which adds or changes the designation of the specified firearm.

SEC. 5. Section 12285 of the Penal Code is amended to read:

12285. (a) Any person who lawfully possesses an assault weapon, as defined in Section 12276, prior to June 1, 1989, shall register the firearm by January 1, 1991, and any person who lawfully possessed an assault weapon prior to the date it was specified as an assault weapon pursuant to Section 12276.5 shall register the firearm within 90 days, with the Department of Justice pursuant to those procedures which the department may establish. The registration shall contain a description of the firearm that identifies it uniquely, including all identification marks, the full name, address, date of birth, and thumbprint of the owner, and any other information as the department may deem appropriate. The department may charge a fee for registration of up to twenty dollars ($20) per person but not to exceed the actual processing costs of the department. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustment for the department's budget or as otherwise increased through the Budget Act.

(b) No assault weapon possessed pursuant to this section may be sold or transferred on or after January 1, 1990, to anyone within this state other than to a licensed gun dealer, as defined in subdivision (c) of Section 12290, or as provided in Section 12288. Any person who (1) obtains title to an assault weapon registered under this section by bequest or intestate succession, (2) moves into the state in lawful possession of an assault weapon, or (3) lawfully possessed a firearm subsequently declared to be an assault weapon pursuant to Section 12276.5 shall, within 90 days, either render the weapon permanently inoperable, sell the weapon to a licensed gun dealer, obtain a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2, or remove the weapon from this state. A person who lawfully possessed a firearm which was subsequently declared to be an assault weapon pursuant to Section 12276.5 may alternatively register the firearm within 90 days of the declaration issued pursuant to subdivision (f) of Section 12276.5.

(c) A person who has registered an assault weapon under this section may possess it only under the following conditions unless a permit allowing additional uses is first obtained under Section 12286:

(1) At that person's residence, place of business, or other property owned by that person, or on property owned by another with the owner's express permission.

(2) While on the premises of a target range of a public or private club or organization organized for the purpose of practicing shooting at targets.

(3) While on a target range which holds a regulatory or business license for the purpose of practicing shooting at that target range.

(4) While on the premises of a shooting club which is licensed pursuant to the Fish and Game Code.

(5) While attending any exhibition, display, or educational project which is about firearms and which is sponsored by, conducted under the auspices of, or approved by a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms.

(6) While transporting the assault weapon between any of the places mentioned in this subdivision, or to any licensed gun dealer, as defined in subdivision (c) of Section 12290, for servicing or repair pursuant to subdivision (b) of Section 12290, if the assault weapon is transported as required by Section 12026.1.

(d) No person who is under the age of 18 years, no person who is prohibited from possessing a firearm by Section 12021 or 12021.1 of this code, and no person described in Section 8100 or 8103 of the Welfare and Institutions Code may register or possess an assault weapon.

(e) The department's registration procedures shall provide the option of joint registration for assault weapons owned by family members residing in the same household.

(f) For 90 days following the effective date of Senate Bill 263 of the 1991–92 Regular Session, a forgiveness period shall exist to allow persons specified in subdivision (b) of Section 12280 to register with the Department of Justice assault weapons which they lawfully possessed prior to June 1, 1989.

(g) Any person who registers his or her assault weapon during the 90-day forgiveness period described in subdivision (f), and any person whose registration form was received by the Department of Justice after January 1, 1991, and who was issued a temporary registration prior to the end of the forgiveness period, shall not be charged with a violation of subdivision (b) of Section 12280, if law enforcement becomes aware of that violation only as a result of the registration of the assault weapon. This subdivision shall have no effect upon persons charged with a violation of subdivision (b) of Section 12280 of the Penal Code prior to the effective date of this bill, provided that law enforcement was aware of the violation before the weapon was registered.

SEC. 6. Section 12289 is added to the Penal Code, to read:

12289. The Department of Justice shall conduct a public education and notification program regarding the registration of assault weapons, including outreach to local law enforcement agencies and utilization of public service announcements in a variety of media approaches, to ensure maximum publicity of the limited forgiveness period of the registration requirement specified in subdivision (f) of Section 12285 and the consequences of nonregistration. The department shall develop posters describing gunowners' responsibilities under this chapter which shall be posted

in a conspicuous place in every licensed gun store in the state during the forgiveness period.

Any costs incurred by the Department of Justice to implement this section which cannot be absorbed by the department shall be funded from the Dealers' Record of Sale Special Account, as set forth in subdivision (d) of Section 12076, upon appropriation by the Legislature.

SEC. 7. It is the Legislature's intent in enacting this measure that the Roberti-Roos Assault Weapons Control Act of 1989 be in full force and effect, except as specifically provided for in this statute.

SEC. 8. (a) Section 1.5 of this bill incorporates amendments to Section 12076 of the Penal Code proposed by both this bill and AB 108. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2) each bill amends Section 12076 of the Penal Code, (3) AB 664 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 108, in which case Section 12076 of the Penal Code, as amended by AB 108, shall remain operative only until the operative date of this bill, at which time Section 1.5 of this bill shall become operative and Sections 1, 1.6, and 1.7 of this bill shall not become operative.

(b) Section 1.6 of this bill incorporates amendments to Section 12076 of the Penal Code proposed by both this bill and AB 664. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 12076 of the Penal Code, (3) AB 108 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 664, in which case Sections 1, 1.5, and 1.7 of this bill shall not become operative.

(c) Section 1.7 of this bill incorporates amendments to Section 12076 of the Penal Code proposed by this bill, AB 108, and AB 664. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1992, (2) each bill amends Section 12076 of the Penal Code, and (3) this bill is enacted after AB 108 and AB 664, in which case Section 12076 of the Penal Code, as amended by AB 108, shall remain operative only until the operative date of this bill, at which time Section 1.7 of this bill shall become operative and Sections 1, 1.5, and 1.6 of this bill shall not become operative.

SEC. 9. Section 4.5 of this bill incorporates amendments to Section 12280 of the Penal Code proposed by this bill and AB 1904. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 12280 of the Penal Code, and (3) this bill is enacted after AB 1904, in which case Section 4 of this bill shall not become operative.

SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 955

An act to amend Sections 12001, 12021, 12070, 12071, 12077, 12078, and 12082 of, and to add Section 12071.1 to, the Penal Code, and to amend Section 8103 of the Welfare and Institutions Code, relating to firearms.

[Approved by Governor October 13, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 12001 of the Penal Code is amended to read:

12001. (a) As used in this chapter, the terms "pistol," "revolver," and "firearm capable of being concealed upon the person" shall apply to and include any device, designed to be used as a weapon, from which is expelled a projectile by the force of any explosion, or other form of combustion, and which has a barrel less than 16 inches in length. These terms also include any device which has a barrel 16 inches or more in length which is designed to be interchanged with a barrel less than 16 inches in length.

(b) As used in this chapter, "firearm" means any device, designed to be used as a weapon, from which is expelled through a barrel a projectile by the force of any explosion or other form of combustion.

(c) As used in Sections 12021, 12021.1, 12070, 12071, 12072, and 12073 of this code, and Sections 8100 and 8103 of the Welfare and Institutions Code, the term "firearm" includes the frame or receiver of any such weapon.

(d) For the purpose of Sections 12025 and 12031 the term "firearm" shall also include any rocket, rocket propelled projectile launcher or similar device containing any explosive or incendiary material whether or not such device is designed for emergency or distress signaling purposes.

(e) (1) For purposes of Sections 12070, 12071, and subdivisions (b), (c), and (d) of Section 12072, the term "firearm" does not include an unloaded firearm which is defined as an "antique firearm" in Section 921 (a) (16) of Title 18 of the United States Code.

(2) For purposes of Sections 12070, 12071, and subdivisions (b), (c), and (d) of Section 12072, the term "firearm" does not include an unloaded firearm that meets both of the following:

(A) It is not a pistol, revolver, or other firearm capable of being concealed upon the person.

(B) It is a curio or relic, as defined in Section 178.11 of Title 27 of

the Code of Federal Regulations.

(f) Nothing shall prevent a device defined as a "pistol," "revolver," or "firearm capable of being concealed upon the person" from also being found to be a short-barreled shotgun or a short-barreled rifle, as defined in Section 12020.

SEC. 1.1. Section 12001 of the Penal Code is amended to read:

12001. (a) As used in this title, the terms "pistol," "revolver," and "firearm capable of being concealed upon the person" shall apply to and include any device designed to be used as a weapon, from which is expelled a projectile by the force of any explosion, or other form of combustion, and which has a barrel less than 16 inches in length. These terms also include any device which has a barrel 16 inches or more in length which is designed to be interchanged with a barrel less than 16 inches in length.

(b) As used in this title, "firearm" means any device, designed to be used as a weapon, from which is expelled through a barrel a projectile by the force of any explosion or other form of combustion.

(c) As used in Sections 12021, 12021.1, 12070, 12071, 12072, and 12073 of this code, and Sections 8100 and 8103 of the Welfare and Institutions Code, the term "firearm" includes the frame or receiver of any such weapon.

(d) For the purpose of Sections 12025 and 12031, the term "firearm" also shall include any rocket, rocket propelled projectile launcher, or similar device containing any explosive or incendiary material whether or not the device is designed for emergency or distress signaling purposes.

(e) (1) For purposes of Sections 12070, 12071, and subdivisions (b), (c), and (d) of Section 12072, the term "firearm" does not include an unloaded firearm which is defined as an "antique firearm" in Section 921 (a) (16) of Title 18 of the United States Code.

(2) For purposes of Sections 12070, 12071, and subdivisions (b), (c), and (d) of Section 12072, the term "firearm" does not include an unloaded firearm that meets both of the following:

(A) It is not a pistol, revolver, or other firearm capable of being concealed upon the person.

(B) It is a curio or relic, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations.

(f) Nothing shall prevent a device defined as a "pistol," "revolver," or "firearm capable of being concealed upon the person" from also being found to be a short-barreled shotgun or a short-barreled rifle, as defined in Section 12020.

(g) For purposes of Section 12551, the term "firearm" also shall include any instrument which expels a metallic projectile, such as a BB or a pellet, through the force of air pressure, CO_2 pressure, or spring action, or any spot marker gun.

SEC. 2. Section 12021 of the Penal Code is amended to read:

12021. (a) Any person who has been convicted of a felony under the laws of the United States, of the State of California, or any other state, government, or country, or of an offense enumerated in

Section 12001.6, or who is addicted to the use of any narcotic drug, who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(b) Notwithstanding subdivision (a), any person who has been convicted of a felony or of an offense enumerated in Section 12001.6, when that conviction results from certification by the juvenile court for prosecution as an adult in an adult court under Section 707 of the Welfare and Institutions Code, who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(c) (1) Except as provided in subdivision (a) or paragraph (2) of this subdivision, any person who has been convicted of a misdemeanor violation of Section 136.5, 140, 171b, 171c, 171d, 241, 243, 244.5, 245, 245.5, 246.3, 247, 417, 417.2, 626.9, subdivision (b) or (d) of Section 12034, subdivision (a) of Section 12100, 12320, or 12590 and who, within 10 years of the conviction, owns, or has in his or her possession or under his or her custody or control, any firearm is guilty of a public offense, which shall be punishable by imprisonment in the state prison or in a county jail not exceeding one year, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. The court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this subdivision. However, the prohibition in this paragraph may be reduced, eliminated, or conditioned as provided in paragraph (2).

(2) Any person, whose continued employment or livelihood is dependent on the ability to legally possess a firearm, who is subject to the prohibition imposed by this subdivision because of a conviction prior to the effective date of the amendments which added this paragraph to this section, at any time until January 1, 1993, may petition the court for relief from this prohibition. The court may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the court deems appropriate. In making its decision, the court may consider the petitioner's continued employment, the interests of justice, any relevant evidence, and the totality of the circumstances. It is the intent of the Legislature that courts exercise broad discretion in fashioning appropriate relief under this paragraph in cases in which relief is warranted. However, nothing in this paragraph shall be construed to require courts to grant relief to any particular petitioner. It is the intent of the Legislature in enacting this paragraph to permit persons who were convicted of an offense specified in this subdivision prior to the effective date of the amendments which added this paragraph to this section to seek relief from the prohibition imposed by this subdivision.

(d) Any person who, as an express condition of probation, is prohibited or restricted from owning, possessing, controlling, receiving, or purchasing a firearm and who owns, or has in his or her possession or under his or her custody or control, any firearm but who is not subject to subdivision (a) or (c) is guilty of a public

offense, which shall be punishable by imprisonment in the state prison or in a county jail not exceeding one year, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. The court, on forms provided by the Department of Justice, shall notify the department of persons subject to this subdivision. The notice shall include a copy of the order of probation and a copy of any minute order or abstract reflecting the order and conditions of probation.

(e) Any person who (1) is alleged to have committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, (2) is found to be a fit and proper subject to be dealt with under the juvenile court law, and (3) is subsequently adjudged a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code because the person committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code shall not own, or have in his or her possession or under his or her custody or control, any firearm until the age of 30 years. A violation of this subdivision shall be punishable by imprisonment in the state prison or in a county jail not exceeding one year, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. The juvenile court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this subdivision. Notwithstanding any other law, the forms required to be submitted to the department pursuant to this subdivision may be used to determine eligibility to acquire a firearm.

(f) Subdivision (a) shall not apply to a person who has been convicted of a felony under the laws of the United States unless either of the following criteria is satisfied:

(1) Conviction of a like offense under California law can only result in imposition of felony punishment.

(2) The defendant was sentenced to a federal correctional facility for more than 30 days, or received a fine of more than one thousand dollars ($1,000), or received both punishments.

(g) Every person who obtains, receives, purchases, or otherwise acquires, or who attempts to obtain, receive, purchase, or otherwise acquire, a firearm knowing that he or she is subject to a restraining order issued pursuant to Section 545, Section 545.5, Section 546, and paragraph (2) of subdivision (a) of Section 547 of the Code of Civil Procedure is guilty of a public offense, which shall be punishable by imprisonment in the state prison or in a county jail not exceeding one year, by a fine not exceeding one thousand dollars ($1,000), or both that imprisonment and fine.

SEC. 3. Section 12021 of the Penal Code is amended to read:

12021. (a) Any person who has been convicted of a felony under the laws of the United States, of the State of California, or any other state, government, or country, or of an offense enumerated in Section 12001.6, or who is addicted to the use of any narcotic drug, who owns or has in his or her possession or under his or her custody

or control any firearm is guilty of a felony.

(b) Notwithstanding subdivision (a), any person who has been convicted of a felony or of an offense enumerated in Section 12001.6, when that conviction results from certification by the juvenile court for prosecution as an adult in an adult court under Section 707 of the Welfare and Institutions Code, who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(c) (1) Except as provided in subdivision (a) or paragraph (2) of this subdivision, any person who has been convicted of a misdemeanor violation of Section 136.5, 140, 171b, 171c, 171d, 241, 243, 244. 5, 245, 245.5, 246.3, 247, 417, 417.2, 626.9, subdivision (b) or (d) of Section 12034, subdivision (a) of Section 12100, 12320, or 12590 and who, within 10 years of the conviction, owns, or has in his or her possession or under his or her custody or control, any firearm is guilty of a public offense, which shall be punishable by imprisonment in the state prison or in a county jail not exceeding one year, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. The court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this subdivision. However, the prohibition in this paragraph may be reduced, eliminated, or conditioned as provided in paragraph (2).

(2) Any person, whose continued employment or livelihood is dependent on the ability to legally possess a firearm, who is subject to the prohibition imposed by this subdivision because of a conviction prior to the effective date of the amendments which added this paragraph to this section, at any time until January 1, 1993, may petition the court for relief from this prohibition. The court may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the court deems appropriate. In making its decision, the court may consider the petitioner's continued employment, the interest of justice, any relevant evidence, and the totality of the circumstances. It is the intent of the Legislature that courts exercise broad discretion in fashioning appropriate relief under this paragraph in cases in which relief is warranted. However, nothing in this paragraph shall be construed to require courts to grant relief to any particular petitioner. It is the intent of the Legislature in enacting this paragraph to permit persons who were convicted of an offense specified in this subdivision prior to the effective date of the amendments which added this paragraph to this section to seek relief from the prohibition imposed by this subdivision.

(d) Any person who, as an express condition of probation, is prohibited or restricted from owning, possessing, controlling, receiving, or purchasing a firearm and who owns, or has in his or her possession or under his or her custody or control, any firearm but who is not subject to subdivision (a) or (c) is guilty of a public offense, which shall be punishable by imprisonment in the state prison or in a county jail not exceeding one year, by a fine not

exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. The court, on forms provided by the Department of Justice, shall notify the department of persons subject to this subdivision. The notice shall include a copy of the order of probation and a copy of any minute order or abstract reflecting the order and conditions of probation.

(e) Any person who (1) is alleged to have committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, (2) is found to be a fit and proper subject to be dealt with under the juvenile court law, and (3) is subsequently adjudged a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code because the person committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code shall not own, or have in his or her possession or under his or her custody or control, any firearm until the age of 30 years. A violation of this subdivision shall be punishable by imprisonment in the state prison or in a county jail not exceeding one year, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. The juvenile court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this subdivision. Notwithstanding any other law, the forms required to be submitted to the department pursuant to this subdivision may be used to determine eligibility to acquire a firearm.

(f) Subdivision (a) shall not apply to a person who has been convicted of a felony under the laws of the United States unless either of the following criteria is satisfied:

(1) Conviction of a like offense under California law can only result in imposition of felony punishment.

(2) The defendant was sentenced to a federal correctional facility for more than 30 days, or received a fine of more than one thousand dollars ($1,000), or received both punishments.

(g) Every person who purchases or receives, or attempts to purchase or receive, a firearm knowing that he or she is subject to a restraining order issued pursuant to subdivision (a) of Section 546 of the Code of Civil Procedure, or paragraph (2) of subdivision (a) of Section 547 of the Code of Civil Procedure, and predicated on paragraph (2), (3), or (6) of subdivision (a) of Section 4359 of the Civil Code, is guilty of a public offense, which shall be punishable by imprisonment in the state prison or in a county jail not exceeding one year, by a fine not exceeding one thousand dollars ($1,000), or both that imprisonment and fine. This subdivision does not apply unless the copy of the restraining order personally served on the person against whom the restraining order is issued contains a notice in bold print stating (1) that the person is prohibited from purchasing or receiving or attempting to purchase or receive a firearm and (2) specifying the penalties for violating this subdivision, or a court has provided actual verbal notice of the firearm prohibition and penalty as provided in subdivision (f) of Section 550 of the Code of Civil

Procedure. However, this subdivision does not apply if the firearm is received as part of the disposition of community property pursuant to Section 4800 of the Civil Code.

SEC. 4. Section 12070 of the Penal Code, as amended by Chapter 5 of the Statutes of 1991, is amended to read:

12070. (a) No person shall engage in the business of selling, leasing, or transferring firearms unless he or she has been issued a license pursuant to Section 12071. Any person violating this section is guilty of a misdemeanor.

(b) As used in this article, engaging in the business of selling, leasing, or transferring of firearms does not include any of the following:

(1) The sale, lease, or transfer of any firearm by a person acting pursuant to a court order or pursuant to the Enforcement of Judgments Law (Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure), or by a person who liquidates a personal firearm collection to satisfy a court judgment.

(2) The sale, lease, or transfer of firearms by a person acting pursuant to subdivision (c) of Section 12028.

(3) The sale, lease, or transfer of a firearm by a person who obtains title to the firearm by intestate succession or by bequest, provided the person disposes of the firearm within 60 days of receipt of the firearm.

(4) The infrequent sale, lease, or transfer of firearms.

(5) The sale, lease, or transfer of used firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, at gun shows or events, as specified in subparagraph (B) of paragraph (1) of subdivision (b) of Section 12071, by a person other than a licensee or dealer, provided the person has a valid federal firearms license and a certificate of eligibility issued by the Department of Justice, as specified in Section 12071, and provided all the sales, leases, or transfers fully comply with subdivision (d) of Section 12072. However, the person shall not engage in the sale, lease, or transfer of used firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person at more than 12 gun shows or events in any calendar year and shall not sell, lease, or transfer more than 15 used firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person at any single gun show or event. In no event shall the person sell more than 75 used firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person in any calendar year.

A person described in this paragraph shall be known as a "Gun Show Trader."

The Department of Justice shall adopt regulations to administer this program and shall recover the full costs of administration from fees assessed applicants.

As used in this paragraph, the term "used firearm" means a firearm that has been sold previously at retail and is more than three

years old.

(c) As used in this section, "infrequent" means:

(1) For pistols, revolvers, and other firearms capable of being concealed upon the person, less than six transactions per calendar year. For this purpose, "transaction" means a single sale, lease, or transfer of any number of pistols, revolvers, or other firearms capable of being concealed upon the person.

(2) For firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, occasional and without regularity.

SEC. 4.1. Section 12070 of the Penal Code, as amended by Chapter 5 of the Statutes of 1991, is amended to read:

12070. (a) No person shall engage in the business of selling, leasing, or transferring firearms unless he or she has been issued a license pursuant to Section 12071. Any person violating this section is guilty of a misdemeanor.

(b) As used in this article, engaging in the business of selling, leasing, or transferring of firearms does not include any of the following:

(1) The sale, lease, or transfer of any firearm by a person acting pursuant to a court order or pursuant to the Enforcement of Judgments Law (Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure), or by a person who liquidates a personal firearm collection to satisfy a court judgment.

(2) The sale, lease, or transfer of firearms by a person acting pursuant to subdivision (c) of Section 12028.

(3) The sale, lease, or transfer of a firearm by a person who obtains title to the firearm by intestate succession or by bequest, provided the person disposes of the firearm within 60 days of receipt of the firearm.

(4) The infrequent sale, lease, or transfer of firearms.

(5) The sale, lease, or transfer of used firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, at gun shows or events, as specified in subparagraph (B) of paragraph (1) of subdivision (b) of Section 12071, by a person other than a licensee or dealer, provided the person has a valid federal firearms license and a certificate of eligibility issued by the Department of Justice, as specified in Section 12071, and provided all the sales, leases, or transfers fully comply with subdivision (d) of Section 12072. However, the person shall not engage in the sale, lease, or transfer of used firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person at more than 12 gun shows or events in any calendar year and shall not sell, lease, or transfer more than 15 used firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person at any single gun show or event. In no event shall the person sell more than 75 used firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person in any calendar year.

A person described in this paragraph shall be known as a "Gun Show Trader."

The Department of Justice shall adopt regulations to administer this program and shall recover the full costs of administration from fees assessed applicants.

As used in this paragraph, the term "used firearm" means a firearm that has been sold previously at retail and is more than three years old.

(6) The activities of a law enforcement agency pursuant to Section 12084.

(c) As used in this section, "infrequent" means:

(1) For pistols, revolvers, and other firearms capable of being concealed upon the person, less than six transactions per calendar year. For this purpose, "transaction" means a single sale, lease, or transfer of any number of pistols, revolvers, or other firearms capable of being concealed upon the person.

(2) For firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, occasional and without regularity.

SEC. 5. Section 12071 of the Penal Code, as amended by Chapter 5 of the Statutes of 1991, is amended to read:

12071. (a) (1) As used in this chapter, the term "licensee" or "dealer" means a person who has (A) a valid federal firearms license, (B) any regulatory or business license, or licenses, required by local government, (C) a valid seller's permit issued by the State Board of Equalization, (D) a certificate of eligibility issued by the Department of Justice pursuant to paragraph (4), and (E) a license issued in the format prescribed by paragraph (6).

(2) The duly constituted licensing authority of a city, county, or a city and county shall accept applications for, and may grant licenses permitting, licensees to sell firearms at retail within the city, county, or city and county. The duly constituted licensing authority shall inform applicants who are denied licenses of the reasons for the denial in writing.

(3) No license shall be granted to any applicant who fails to provide a copy of his or her valid federal firearms license, valid seller's permit issued by the State Board of Equalization, and the certificate of eligibility described in paragraph (4).

(4) A person may request a certificate of eligibility from the Department of Justice and the Department of Justice shall issue such a certificate to an applicant when the department's records indicate that the applicant is not a person who is prohibited from possessing firearms.

(5) The department shall adopt regulations to administer the certificate of eligibility program and shall recover the full costs of administering the program by imposing fees assessed to applicants who apply for those certificates.

(6) A license granted by the duly constituted licensing authority of any city, county, or city and county, shall be valid for not more

than one year from the date of issuance and shall be in one of the following forms:

(A) In the form prescribed by the Attorney General.

(B) A regulatory or business license which states on its face, "Valid for Retail Sales of Firearms," and is endorsed by the signature of the issuing authority.

(C) A letter from the duly constituted licensing authority having primary jurisdiction for the applicant's intended business location stating that the jurisdiction does not require any form of regulatory or business license or does not otherwise restrict or regulate the sale of firearms.

(7) Local licensing authorities may assess fees to recover their full costs of processing applications for licenses.

(b) A license is subject to forfeiture for breach of any of the following prohibitions and requirements:

(1) (A) Except as provided in subparagraphs (B) and (C), the business shall be conducted only in the buildings designated in the license.

(B) A person licensed pursuant to subdivision (a), for purposes of complying with Section 12082, may take possession of firearms and commence preparation of registers for the sale, delivery, or transfer of firearms at gun shows or events, as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, provided the gun show or event is not conducted from any motorized or towed vehicle. A person conducting business pursuant to this subparagraph shall be entitled to conduct business as authorized herein at any gun show or event in the state without regard to the jurisdiction within this state that issued the license pursuant to subdivision (a).

A person licensed pursuant to subdivision (a), at gun shows and events, also may engage in the business of selling, leasing, or transferring firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, provided the person (i) complies with all other applicable provisions of law, including, but not limited to, the 15-day waiting period specified in subparagraph (A) of paragraph (3), and (ii) complies with all applicable local laws, regulations, and fees, if any.

A person conducting business pursuant to this subparagraph shall publicly display his or her license issued pursuant to subdivision (a), or a facsimile thereof, at any gun show or event, as specified in this subparagraph.

(C) A person licensed pursuant to subdivision (a) may engage in the sale and transfer of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, at events specified in subdivision (g) of Section 12078, subject to the prohibitions and restrictions contained in that subdivision.

A person licensed pursuant to subdivision (a) also may accept delivery of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, outside the building designated in the license, provided the firearm is being donated for

the purpose of sale or transfer at an auction or similar event specified in subdivision (g) of Section 12078.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No firearm shall be delivered:

(A) Prior to January 1, 1996, within 15 days of the application for the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 15 days of the application for the purchase of a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 10 days of the application for the purchase of any other firearm, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 10 days of the submission to the department of corrected copies of the register, or within 10 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(B) Unless unloaded and securely wrapped or unloaded and in a locked container.

(C) Unless the purchaser or transferee either is personally known to the dealer or presents clear evidence of his or her identity and age to the dealer.

(D) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(4) No pistol, revolver, or other firearm capable of being concealed upon the person or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(5) The licensee shall agree to and shall act properly and promptly in processing transfers of firearms pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073 and 12077 and subdivisions (a) and (b) of Section 12072.

(c) As used in this article, "clear evidence of his or her identity and age" includes, but is not limited to, a motor vehicle operator's license, a state identification card, an armed forces identification card, an employment identification card which contains the bearer's signature and photograph, or any similar documentation which

provides the seller reasonable assurance of the identity and age of the purchaser.

SEC. 5.1. Section 12071 of the Penal Code, as amended by Chapter 5 of the Statutes of 1991, is amended to read:

12071. (a) (1) As used in this chapter, the term "licensee" or "dealer" means a person who has (A) a valid federal firearms license, (B) any regulatory or business license, or licenses, required by local government, (C) a valid seller's permit issued by the State Board of Equalization, (D) a certificate of eligibility issued by the Department of Justice pursuant to paragraph (4), and (E) a license issued in the format prescribed by paragraph (6).

(2) The duly constituted licensing authority of a city, county, or a city and county shall accept applications for, and may grant licenses permitting, licensees to sell firearms at retail within the city, county, or city and county. The duly constituted licensing authority shall inform applicants who are denied licenses of the reasons for the denial in writing.

(3) No license shall be granted to any applicant who fails to provide a copy of his or her valid federal firearms license, valid seller's permit issued by the State Board of Equalization, and the certificate of eligibility described in paragraph (4).

(4) A person may request a certificate of eligibility from the Department of Justice and the Department of Justice shall issue such a certificate to an applicant when the department's records indicate that the applicant is not a person who is prohibited from possessing firearms.

(5) The department shall adopt regulations to administer the certificate of eligibility program and shall recover the full costs of administering the program by imposing fees assessed to applicants who apply for those certificates.

(6) A license granted by the duly constituted licensing authority of any city, county, or city and county, shall be valid for not more than one year from the date of issuance and shall be in one of the following forms:

(A) In the form prescribed by the Attorney General.

(B) A regulatory or business license which states on its face, "Valid for Retail Sales of Firearms," and is endorsed by the signature of the issuing authority.

(C) A letter from the duly constituted licensing authority having primary jurisdiction for the applicant's intended business location stating that the jurisdiction does not require any form of regulatory or business license or does not otherwise restrict or regulate the sale of firearms.

(7) Local licensing authorities may assess fees to recover their full costs of processing applications for licenses.

(b) A license is subject to forfeiture for breach of any of the following prohibitions and requirements:

(1) (A) Except as provided in subparagraphs (B) and (C), the business shall be conducted only in the buildings designated in the

license.

(B) A person licensed pursuant to subdivision (a), for purposes of complying with Section 12082, may take possession of firearms and commence preparation of registers for the sale, delivery, or transfer of firearms at gun shows or events, as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, provided the gun show or event is not conducted from any motorized or towed vehicle. A person conducting business pursuant to this subparagraph shall be entitled to conduct business as authorized herein at any gun show or event in the state without regard to the jurisdiction within this state that issued the license pursuant to subdivision (a).

A person licensed pursuant to subdivision (a), at gun shows and events, also may engage in the business of selling, leasing, or transferring firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, provided the person (i) complies with all other applicable provisions of law, including, but not limited to, the 15-day waiting period specified in subparagraph (A) of paragraph (3), and (ii) complies with all applicable local laws, regulations, and fees, if any.

A person conducting business pursuant to this subparagraph shall publicly display his or her license issued pursuant to subdivision (a), or a facsimile thereof, at any gun show or event, as specified in this subparagraph.

(C) A person licensed pursuant to subdivision (a) may engage in the sale and transfer of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, at events specified in subdivision (g) of Section 12078, subject to the prohibitions and restrictions contained in that subdivision.

A person licensed pursuant to subdivision (a) also may accept delivery of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, outside the building designated in the license, provided the firearm is being donated for the purpose of sale or transfer at an auction or similar event specified in subdivision (g) of Section 12078.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No firearm shall be delivered:

(A) Prior to January 1, 1996, within 15 days of the application for the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 15 days of the application for the purchase of a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days

of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 10 days of the application for the purchase of any other firearm, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 10 days of the submission to the department of corrected copies of the register, or within 10 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(B) Unless unloaded and securely wrapped or unloaded and in a locked container.

(C) Unless the purchaser or transferee either is personally known to the dealer or presents clear evidence of his or her identity and age to the dealer.

(D) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(4) No pistol, revolver, or other firearm capable of being concealed upon the person or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(5) The licensee shall agree to and shall act properly and promptly in processing transfers of firearms pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073 and 12077 and subdivisions (a) and (b) of Section 12072.

(7) Commencing October 1, 1993, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser or transferee presents to the dealer a basic firearm safety certificate.

(8) Commencing July 1, 1992, the licensee shall offer to provide the purchaser or transferee of a firearm with a copy of the pamphlet described in Section 12080 and may add the cost of the pamphlet, if any, to the sales price of the firearm.

(9) The licensee shall not commit an act of collusion as defined in Section 12072.

(c) As used in this article, "clear evidence of his or her identity and age" includes, but is not limited to, a motor vehicle operator's license, a state identification card, an armed forces identification card, an employment identification card which contains the bearer's signature and photograph, or any similar documentation which provides the seller reasonable assurance of the identity and age of the purchaser.

(d) As used in this article, "a basic firearm safety certificate" means a basic firearm certificate issued to the purchaser or transferee by the Department of Justice pursuant to Article 8 (commencing with Section 12800) of Chapter 6.

SEC. 5.2. Section 12071 of the Penal Code, as amended by

Chapter 5, of the Statutes of 1991, is amended to read:

12071. (a) (1) As used in this chapter, the term "licensee" or "dealer" means a person who has (A) a valid federal firearms license, (B) any regulatory or business license, or licenses, required by local government, (C) a valid seller's permit issued by the State Board of Equalization, (D) a certificate of eligibility issued by the Department of Justice pursuant to paragraph (4), and (E) a license issued in the format prescribed by paragraph (6).

(2) The duly constituted licensing authority of a city, county, or a city and county shall accept applications for, and may grant licenses permitting, licensees to sell firearms at retail within the city, county, or city and county. The duly constituted licensing authority shall inform applicants who are denied licenses of the reasons for the denial in writing.

(3) No license shall be granted to any applicant who fails to provide a copy of his or her valid federal firearms license, valid seller's permit issued by the State Board of Equalization, and the certificate of eligibility described in paragraph (4).

(4) A person may request a certificate of eligibility from the Department of Justice and the Department of Justice shall issue such a certificate to an applicant when the department's records indicate that the applicant is not a person who is prohibited from possessing firearms.

(5) The department shall adopt regulations to administer the certificate of eligibility program and shall recover the full costs of administering the program by imposing fees assessed to applicants who apply for those certificates.

(6) A license granted by the duly constituted licensing authority of any city, county, or city and county, shall be valid for not more than one year from the date of issuance and shall be in one of the following forms:

(A) In the form prescribed by the Attorney General.

(B) A regulatory or business license which states on its face, "Valid for Retail Sales of Firearms," and is endorsed by the signature of the issuing authority.

(C) A letter from the duly constituted licensing authority having primary jurisdiction for the applicant's intended business location stating that the jurisdiction does not require any form of regulatory or business license or does not otherwise restrict or regulate the sale of firearms.

(7) Local licensing authorities may assess fees to recover their full costs of processing applications for licenses.

(b) A license is subject to forfeiture for breach of any of the following prohibitions and requirements:

(1) (A) Except as provided in subparagraphs (B) and (C), the business shall be conducted only in the buildings designated in the license.

(B) A person licensed pursuant to subdivision (a), for purposes of complying with Section 12082, may take possession of firearms and

commence preparation of registers for the sale, delivery, or transfer of firearms at gun shows or events, as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, provided the gun show or event is not conducted from any motorized or towed vehicle. A person conducting business pursuant to this subparagraph shall be entitled to conduct business as authorized herein at any gun show or event in the state without regard to the jurisdiction within this state that issued the license pursuant to subdivision (a).

A person licensed pursuant to subdivision (a), at gun shows and events, also may engage in the business of selling, leasing, or transferring firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, provided the person (i) complies with all other applicable provisions of law, including, but not limited to, the 15-day waiting period specified in subparagraph (A) of paragraph (3), and (ii) complies with all applicable local laws, regulations, and fees, if any.

A person conducting business pursuant to this subparagraph shall publicly display his or her license issued pursuant to subdivision (a), or a facsimile thereof, at any gun show or event, as specified in this subparagraph.

(C) A person licensed pursuant to subdivision (a) may engage in the sale and transfer of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, at events specified in subdivision (g) of Section 12078, subject to the prohibitions and restrictions contained in that subdivision.

A person licensed pursuant to subdivision (a) also may accept delivery of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, outside the building designated in the license, provided the firearm is being donated for the purpose of sale or transfer at an auction or similar event specified in subdivision (g) of Section 12078.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No firearm shall be delivered:

(A) Prior to January 1, 1996, within 15 days of the application for the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 15 days of the application for the purchase of a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 10 days of the application for the purchase of

any other firearm, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 10 days of the submission to the department of corrected copies of the register, or within 10 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(B) Unless unloaded and securely wrapped or unloaded and in a locked container.

(C) Unless the purchaser or transferee either is personally known to the dealer or presents clear evidence of his or her identity and age to the dealer.

(D) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(4) No pistol, revolver, or other firearm capable of being concealed upon the person or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(5) The licensee shall agree to and shall act properly and promptly in processing transfers of firearms pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073 and 12077 and subdivisions (a) and (b) of Section 12072.

(7) The licensee shall post conspicuously within the licensed premises the following warning in block letters not less than three inches in height:

"IF YOU LEAVE A LOADED FIREARM WITHIN THE REACH OR EASY ACCESS OF A CHILD, YOU MAY BE FINED OR IMPRISONED, OR BOTH, IF THE CHILD GAINS ACCESS TO, AND IMPROPERLY USES, THE FIREARM."

(c) As used in this article, "clear evidence of his or her identity and age" includes, but is not limited to, a motor vehicle operator's license, a state identification card, an armed forces identification card, an employment identification card which contains the bearer's signature and photograph, or any similar documentation which provides the seller reasonable assurance of the identity and age of the purchaser.

SEC. 5.3. Section 12071 of the Penal Code, as amended by Chapter 5, of the Statutes of 1991, is amended to read:

12071. (a) (1) As used in this chapter, the term "licensee" or "dealer" means a person who has (A) a valid federal firearms license, (B) any regulatory or business license, or licenses, required by local government, (C) a valid seller's permit issued by the State Board of Equalization, (D) a certificate of eligibility issued by the Department of Justice pursuant to paragraph (4), and (E) a license issued in the format prescribed by paragraph (6).

(2) (A) The duly constituted licensing authority of a city, county, or a city and county shall accept applications for, and may grant

licenses permitting, licensees to sell firearms at retail within the city, county, or city and county.

(B) The duly constituted licensing authority shall inform applicants who are denied licenses of the reasons for the denial in writing.

(C) The full costs incurred by those licensing authorities in administering this program shall be recovered by fees assessed on persons who apply for a license to sell firearms at retail.

(3) No license shall be granted to any applicant who fails to provide a copy of his or her valid federal firearms license, valid seller's permit issued by the State Board of Equalization, and the certificate of eligibility described in paragraph (4).

(4) A person may request a certificate of eligibility from the Department of Justice and the Department of Justice shall issue such a certificate to an applicant when the department's records indicate that the applicant is not a person who is prohibited from possessing firearms.

(5) The department shall adopt regulations to administer the certificate of eligibility program and shall recover the full costs of administering the program by imposing fees assessed to applicants who apply for those certificates.

(6) A license granted by the duly constituted licensing authority of any city, county, or city and county, shall be valid for not more than one year from the date of issuance and shall be in one of the following forms:

(A) In the form prescribed by the Attorney General.

(B) A regulatory or business license which states on its face, "Valid for Retail Sales of Firearms," and is endorsed by the signature of the issuing authority.

(C) A letter from the duly constituted licensing authority having primary jurisdiction for the applicant's intended business location stating that the jurisdiction does not require any form of regulatory or business license or does not otherwise restrict or regulate the sale of firearms.

(7) Local licensing authorities may assess fees to recover their full costs of processing applications for licenses.

(b) A license is subject to forfeiture for breach of any of the following prohibitions and requirements:

(1) (A) Except as provided in subparagraphs (B) and (C), the business shall be conducted only in the buildings designated in the license.

(B) A person licensed pursuant to subdivision (a), for purposes of complying with Section 12082, may take possession of firearms and commence preparation of registers for the sale, delivery, or transfer of firearms at gun shows or events, as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, provided the gun show or event is not conducted from any motorized or towed vehicle. A person conducting business pursuant to this subparagraph shall be entitled to conduct business as authorized herein at any gun

show or event in the state without regard to the jurisdiction within this state that issued the license pursuant to subdivision (a).

A person licensed pursuant to subdivision (a), at gun shows and events, also may engage in the business of selling, leasing, or transferring firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, provided the person (i) complies with all other applicable provisions of law, including, but not limited to, the 15-day waiting period specified in subparagraph (A) of paragraph (3), and (ii) complies with all applicable local laws, regulations, and fees, if any.

A person conducting business pursuant to this subparagraph shall publicly display his or her license issued pursuant to subdivision (a), or a facsimile thereof, at any gun show or event, as specified in this subparagraph.

(C) A person licensed pursuant to subdivision (a) may engage in the sale and transfer of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, at events specified in subdivision (g) of Section 12078, subject to the prohibitions and restrictions contained in that subdivision.

A person licensed pursuant to subdivision (a) also may accept delivery of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, outside the building designated in the license, provided the firearm is being donated for the purpose of sale or transfer at an auction or similar event specified in subdivision (g) of Section 12078.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No firearm shall be delivered:

(A) Prior to January 1, 1996, within 15 days of the application for the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 15 days of the application for the purchase of a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 10 days of the application for the purchase of any other firearm, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 10 days of the submission to the department of corrected copies of the register, or within 10 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(B) Unless unloaded.

(C) Unless one of the following applies:

(i) It is securely wrapped and, if it is capable of being equipped with a trigger-locking device, it is so equipped with a trigger-locking device purchased from the dealer at the time of delivery.

(ii) It is in a locked container.

(iii) It is in a locked gun rack purchased from the dealer at the time of delivery.

(D) Unless the purchaser or transferee either is personally known to the dealer or presents clear evidence of his or her identity and age to the dealer.

(E) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(4) No pistol, revolver, or other firearm capable of being concealed upon the person or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(5) The licensee shall agree to and shall act properly and promptly in processing transfers of firearms pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073 and 12077 and subdivisions (a) and (b) of Section 12072.

(c) (1) As used in this article, "clear evidence of his or her identity and age" includes, but is not limited to, a motor vehicle operator's license, a state identification card, an armed forces identification card, an employment identification card which contains the bearer's signature and photograph, or any similar documentation which provides the seller reasonable assurance of the identity and age of the purchaser.

(2) As used in this article, "trigger-locking device" means a device which is designed to prevent the firearm from functioning and which is locked by a padlock, key lock, combination lock, or similar locking device, that is reusable, and when applied to the weapon, renders the weapon inoperable.

SEC. 5.4. Section 12071 of the Penal Code, as amended by Chapter 5, of the Statutes of 1991, is amended to read:

12071. (a) (1) As used in this chapter, the term "licensee" or "dealer" means a person who has (A) a valid federal firearms license, (B) any regulatory or business license, or licenses, required by local government, (C) a valid seller's permit issued by the State Board of Equalization, (D) a certificate of eligibility issued by the Department of Justice pursuant to paragraph (4), and (E) a license issued in the format prescribed by paragraph (6).

(2) (A) The duly constituted licensing authority of a city, county, or a city and county shall accept applications for, and may grant licenses permitting, licensees to sell firearms at retail within the city, county, or city and county.

(B) The duly constituted licensing authority shall inform applicants who are denied licenses of the reasons for the denial in writing.

(C) The full costs incurred by those licensing authorities in administering this program shall be recovered by fees assessed on persons who apply for a license to sell firearms at retail.

(3) No license shall be granted to any applicant who fails to provide a copy of his or her valid federal firearms license, valid seller's permit issued by the State Board of Equalization, and the certificate of eligibility described in paragraph (4).

(4) A person may request a certificate of eligibility from the Department of Justice and the Department of Justice shall issue such a certificate to an applicant when the department's records indicate that the applicant is not a person who is prohibited from possessing firearms.

(5) The department shall adopt regulations to administer the certificate of eligibility program and shall recover the full costs of administering the program by imposing fees assessed to applicants who apply for those certificates.

(6) A license granted by the duly constituted licensing authority of any city, county, or city and county, shall be valid for not more than one year from the date of issuance and shall be in one of the following forms:

(A) In the form prescribed by the Attorney General.

(B) A regulatory or business license which states on its face, "Valid for Retail Sales of Firearms," and is endorsed by the signature of the issuing authority.

(C) A letter from the duly constituted licensing authority having primary jurisdiction for the applicant's intended business location stating that the jurisdiction does not require any form of regulatory or business license or does not otherwise restrict or regulate the sale of firearms.

(7) Local licensing authorities may assess fees to recover their full costs of processing applications for licenses.

(b) A license is subject to forfeiture for breach of any of the following prohibitions and requirements:

(1) (A) Except as provided in subparagraphs (B) and (C), the business shall be conducted only in the buildings designated in the license.

(B) A person licensed pursuant to subdivision (a), for purposes of complying with Section 12082, may take possession of firearms and commence preparation of registers for the sale, delivery, or transfer of firearms at gun shows or events, as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, provided the gun show or event is not conducted from any motorized or towed vehicle. A person conducting business pursuant to this subparagraph shall be entitled to conduct business as authorized herein at any gun show or event in the state without regard to the jurisdiction within this state that issued the license pursuant to subdivision (a).

A person licensed pursuant to subdivision (a), at gun shows and events, also may engage in the business of selling, leasing, or transferring firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, provided the person (i) complies with all other applicable provisions of law, including, but not limited to, the 15-day waiting period specified in subparagraph (A) of paragraph (3), and (ii) complies with all applicable local laws, regulations, and fees, if any.

A person conducting business pursuant to this subparagraph shall publicly display his or her license issued pursuant to subdivision (a), or a facsimile thereof, at any gun show or event, as specified in this subparagraph.

(C) A person licensed pursuant to subdivision (a) may engage in the sale and transfer of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, at events specified in subdivision (g) of Section 12078, subject to the prohibitions and restrictions contained in that subdivision.

A person licensed pursuant to subdivision (a) also may accept delivery of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, outside the building designated in the license, provided the firearm is being donated for the purpose of sale or transfer at an auction or similar event specified in subdivision (g) of Section 12078.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No firearm shall be delivered:

(A) Prior to January 1, 1996, within 15 days of the application for the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 15 days of the application for the purchase of a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 10 days of the application for the purchase of any other firearm, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 10 days of the submission to the department of corrected copies of the register, or within 10 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(B) Unless unloaded.

(C) Unless one of the following applies:

(i) It is securely wrapped and, if it is capable of being equipped

with a trigger-locking device, it is so equipped with a trigger-locking device purchased from the dealer at the time of delivery.

(ii) It is in a locked container.

(iii) It is in a locked gun rack purchased from the dealer at the time of delivery.

(D) Unless the purchaser or transferee either is personally known to the dealer or presents clear evidence of his or her identity and age to the dealer.

(E) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(4) No pistol, revolver, or other firearm capable of being concealed upon the person or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(5) The licensee shall agree to and shall act properly and promptly in processing transfers of firearms pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073 and 12077 and subdivisions (a) and (b) of Section 12072.

(7) The licensee shall post conspicuously within the licensed premises the following warning in block letters not less than three inches in height:

"IF YOU LEAVE A LOADED FIREARM WITHIN THE REACH OR EASY ACCESS OF A CHILD, YOU MAY BE FINED OR IMPRISONED, OR BOTH, IF THE CHILD GAINS ACCESS TO, AND IMPROPERLY USES, THE FIREARM."

(c) (1) As used in this article, "clear evidence of his or her identity and age" includes, but is not limited to, a motor vehicle operator's license, a state identification card, an armed forces identification card, an employment identification card which contains the bearer's signature and photograph, or any similar documentation which provides the seller reasonable assurance of the identity and age of the purchaser.

(2) As used in this article, "trigger-locking device" means a device which is designed to prevent the firearm from functioning and which is locked by a padlock, key lock, combination lock, or similar locking device, that is reusable, and when applied to the weapon, renders the weapon inoperable.

SEC. 5.5. Section 12071 of the Penal Code, as amended by Chapter 5 of the Statutes of 1991, is amended to read:

12071. (a) (1) As used in this chapter, the term "licensee" or "dealer" means a person who has (A) a valid federal firearms license, (B) any regulatory or business license, or licenses, required by local government, (C) a valid seller's permit issued by the State Board of Equalization, (D) a certificate of eligibility issued by the Department of Justice pursuant to paragraph (4), and (E) a license

issued in the format prescribed by paragraph (6).

(2) The duly constituted licensing authority of a city, county, or a city and county shall accept applications for, and may grant licenses permitting, licensees to sell firearms at retail within the city, county, or city and county. The duly constituted licensing authority shall inform applicants who are denied licenses of the reasons for the denial in writing.

(3) No license shall be granted to any applicant who fails to provide a copy of his or her valid federal firearms license, valid seller's permit issued by the State Board of Equalization, and the certificate of eligibility described in paragraph (4).

(4) A person may request a certificate of eligibility from the Department of Justice and the Department of Justice shall issue such a certificate to an applicant when the department's records indicate that the applicant is not a person who is prohibited from possessing firearms.

(5) The department shall adopt regulations to administer the certificate of eligibility program and shall recover the full costs of administering the program by imposing fees assessed to applicants who apply for those certificates.

(6) A license granted by the duly constituted licensing authority of any city, county, or city and county, shall be valid for not more than one year from the date of issuance and shall be in one of the following forms:

(A) In the form prescribed by the Attorney General.

(B) A regulatory or business license which states on its face, "Valid for Retail Sales of Firearms," and is endorsed by the signature of the issuing authority.

(C) A letter from the duly constituted licensing authority having primary jurisdiction for the applicant's intended business location stating that the jurisdiction does not require any form of regulatory or business license or does not otherwise restrict or regulate the sale of firearms.

(7) Local licensing authorities may assess fees to recover their full costs of processing applications for licenses.

(b) A license is subject to forfeiture for breach of any of the following prohibitions and requirements:

(1) (A) Except as provided in subparagraphs (B) and (C), the business shall be conducted only in the buildings designated in the license.

(B) A person licensed pursuant to subdivision (a), for purposes of complying with Section 12082, may take possession of firearms and commence preparation of registers for the sale, delivery, or transfer of firearms at gun shows or events, as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, provided the gun show or event is not conducted from any motorized or towed vehicle. A person conducting business pursuant to this subparagraph shall be entitled to conduct business as authorized herein at any gun show or event in the state without regard to the jurisdiction within

this state that issued the license pursuant to subdivision (a).

A person licensed pursuant to subdivision (a), at gun shows and events, also may engage in the business of selling, leasing, or transferring firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, provided the person (i) complies with all other applicable provisions of law, including, but not limited to, the 15-day waiting period specified in subparagraph (A) of paragraph (3), and (ii) complies with all applicable local laws, regulations, and fees, if any.

A person conducting business pursuant to this subparagraph shall publicly display his or her license issued pursuant to subdivision (a), or a facsimile thereof, at any gun show or event, as specified in this subparagraph.

(C) A person licensed pursuant to subdivision (a) may engage in the sale and transfer of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, at events specified in subdivision (g) of Section 12078, subject to the prohibitions and restrictions contained in that subdivision.

A person licensed pursuant to subdivision (a) also may accept delivery of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, outside the building designated in the license, provided the firearm is being donated for the purpose of sale or transfer at an auction or similar event specified in subdivision (g) of Section 12078.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No firearm shall be delivered:

(A) Prior to January 1, 1996, within 15 days of the application for the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 15 days of the application for the purchase of a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 10 days of the application for the purchase of any other firearm, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 10 days of the submission to the department of corrected copies of the register, or within 10 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(B) Unless unloaded and securely wrapped or unloaded and in a locked container.

(C) Unless the purchaser or transferee either is personally known to the dealer or presents clear evidence of his or her identity and age to the dealer.

(D) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(4) No pistol, revolver, or other firearm capable of being concealed upon the person or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(5) The licensee shall agree to and shall act properly and promptly in processing transfers of firearms pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073 and 12077 and subdivisions (a) and (b) of Section 12072.

(7) The licensee shall post conspicuously within the licensed premises the following warning in block letters not less than three inches in height:

"IF YOU LEAVE A LOADED FIREARM WITHIN THE REACH OR EASY ACCESS OF A CHILD, YOU MAY BE FINED OR IMPRISONED, OR BOTH, IF THE CHILD GAINS ACCESS TO, AND IMPROPERLY USES, THE FIREARM."

(8) Commencing October 1, 1993, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser or transferee presents to the dealer a basic firearm safety certificate.

(9) Commencing July 1, 1992, the licensee shall offer to provide the purchaser or transferee of a firearm with a copy of the pamphlet described in Section 12080 and may add the cost of the pamphlet, if any, to the sales price of the firearm.

(10) The licensee shall not commit an act of collusion as defined in Section 12072.

(c) As used in this article, "clear evidence of his or her identity and age" includes, but is not limited to, a motor vehicle operator's license, a state identification card, an armed forces identification card, an employment identification card which contains the bearer's signature and photograph, or any similar documentation which provides the seller reasonable assurance of the identity and age of the purchaser.

(d) As used in this article, "a basic firearm safety certificate" means a basic firearm certificate issued to the purchaser or transferee by the Department of Justice pursuant to Article 8 (commencing with Section 12800) of Chapter 6.

SEC. 5.6. Section 12071 of the Penal Code, as amended by Chapter 5 of the Statutes of 1991, is amended to read:

12071. (a) (1) As used in this chapter, the term "licensee" or "dealer" means a person who has (A) a valid federal firearms license,

(B) any regulatory or business license, or licenses, required by local government, (C) a valid seller's permit issued by the State Board of Equalization, (D) a certificate of eligibility issued by the Department of Justice pursuant to paragraph (4), and (E) a license issued in the format prescribed by paragraph (6).

(2) (A) The duly constituted licensing authority of a city, county, or a city and county shall accept applications for, and may grant licenses permitting, licensees to sell firearms at retail within the city, county, or city and county.

(B) The duly constituted licensing authority shall inform applicants who are denied licenses of the reasons for the denial in writing.

(C) The full costs incurred by those licensing authorities in administering this program shall be recovered by fees assessed on persons who apply for a license to sell firearms at retail.

(3) No license shall be granted to any applicant who fails to provide a copy of his or her valid federal firearms license, valid seller's permit issued by the State Board of Equalization, and the certificate of eligibility described in paragraph (4).

(4) A person may request a certificate of eligibility from the Department of Justice and the Department of Justice shall issue such a certificate to an applicant when the department's records indicate that the applicant is not a person who is prohibited from possessing firearms.

(5) The department shall adopt regulations to administer the certificate of eligibility program and shall recover the full costs of administering the program by imposing fees assessed to applicants who apply for those certificates.

(6) A license granted by the duly constituted licensing authority of any city, county, or city and county, shall be valid for not more than one year from the date of issuance and shall be in one of the following forms:

(A) In the form prescribed by the Attorney General.

(B) A regulatory or business license which states on its face, "Valid for Retail Sales of Firearms," and is endorsed by the signature of the issuing authority.

(C) A letter from the duly constituted licensing authority having primary jurisdiction for the applicant's intended business location stating that the jurisdiction does not require any form of regulatory or business license or does not otherwise restrict or regulate the sale of firearms.

(7) Local licensing authorities may assess fees to recover their full costs of processing applications for licenses.

(b) A license is subject to forfeiture for breach of any of the following prohibitions and requirements:

(1) (A) Except as provided in subparagraphs (B) and (C), the business shall be conducted only in the buildings designated in the license.

(B) A person licensed pursuant to subdivision (a), for purposes of

complying with Section 12082, may take possession of firearms and commence preparation of registers for the sale, delivery, or transfer of firearms at gun shows or events, as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, provided the gun show or event is not conducted from any motorized or towed vehicle. A person conducting business pursuant to this subparagraph shall be entitled to conduct business as authorized herein at any gun show or event in the state without regard to the jurisdiction within the state that issued the license pursuant to subdivision (a).

A person licensed pursuant to subdivision (a), at gun shows and events also may engage in the business of selling, leasing, or transferring firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, provided the person (i) complies with all other applicable provisions of law, including, but not limited to, the 15-day waiting period specified in subparagraph (A) of paragraph (3), and (ii) complies with all applicable local laws, regulations, and fees, if any.

A person conducting business pursuant to this subparagraph shall publicly display his or her license issued pursuant to subdivision (a), or a facsimile thereof, at any gun show or event, as specified in this subparagraph.

(C) A person licensed pursuant to subdivision (a) may engage in the sale and transfer of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, at events specified in subdivision (g) of Section 12078, subject to the prohibitions and restrictions contained in that subdivision.

A person licensed pursuant to subdivision (a) also may accept delivery of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, outside the building designated in the license, provided the firearm is being donated for the purpose of sale or transfer at an auction or similar event specified in subdivision (g) of Section 12078.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No firearm shall be delivered:

(A) Prior to January 1, 1996, within 15 days of the application for the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 15 days of the application for the purchase of a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after

January 1, 1996, within 10 days of the application for the purchase of any other firearm, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 10 days of the submission to the department of corrected copies of the register, or within 10 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(B) Unless unloaded.

(C) Unless one of the following applies:

(i) It is securely wrapped and, if it is capable of being equipped with a trigger-locking device, it is so equipped with a trigger-locking device purchased from the dealer at the time of delivery.

(ii) It is in a locked container.

(iii) It is in a locked gun rack purchased from the dealer at the time of delivery.

(D) Unless the purchaser or transferee either is personally known to the dealer or presents clear evidence of his or her identity and age to the dealer.

(E) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(4) No pistol, revolver, or other firearm capable of being concealed upon the person or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(5) The licensee shall agree to and shall act properly and promptly in processing transfers of firearms pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073 and 12077 and subdivisions (a) and (b) of Section 12072.

(7) Commencing October 1, 1993, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser or transferee presents to the dealer a basic firearm safety certificate.

(8) Commencing July 1, 1992, the licensee shall offer to provide the purchaser or transferee of a firearm with a copy of the pamphlet described in Section 12080 and may add the cost of the pamphlet, if any, to the sales price of the firearm.

(9) The licensee shall not commit an act of collusion as defined in Section 12072.

(c) (1) As used in this article, "clear evidence of his or her identity and age" includes, but is not limited to, a motor vehicle operator's license, a state identification card, an armed forces identification card, an employment identification card which contains the bearer's signature and photograph, or any similar documentation which provides the seller reasonable assurance of the identity and age of the purchaser.

(2) As used in this article, "trigger-locking device" means a device

which is designed to prevent the firearm from functioning and which is locked by a padlock, key lock, combination lock, or similar locking device, that is reusable, and, when applied to the weapon, renders the weapon inoperable.

(d) As used in this article, "a basic firearm safety certificate" means a basic firearm certificate issued to the purchaser or transferee by the Department of Justice pursuant to Article 8 (commencing with Section 12800) of Chapter 6.

SEC. 5.7. Section 12071 of the Penal Code, as amended by Chapter 5, of the Statutes of 1991, is amended to read:

12071. (a) (1) As used in this chapter, the term "licensee" or "dealer" means a person who has (A) a valid federal firearms license, (B) any regulatory or business license, or licenses, required by local government, (C) a valid seller's permit issued by the State Board of Equalization, (D) a certificate of eligibility issued by the Department of Justice pursuant to paragraph (4), and (E) a license issued in the format prescribed by paragraph (6).

(2) (A) The duly constituted licensing authority of a city, county, or a city and county shall accept applications for, and may grant licenses permitting, licensees to sell firearms at retail within the city, county, or city and county.

(B) The duly constituted licensing authority shall inform applicants who are denied licenses of the reasons for the denial in writing.

(C) The full costs incurred by those licensing authorities in administering this program shall be recovered by fees assessed on persons who apply for a license to sell firearms at retail.

(3) No license shall be granted to any applicant who fails to provide a copy of his or her valid federal firearms license, valid seller's permit issued by the State Board of Equalization, and the certificate of eligibility described in paragraph (4).

(4) A person may request a certificate of eligibility from the Department of Justice and the Department of Justice shall issue such a certificate to an applicant when the department's records indicate that the applicant is not a person who is prohibited from possessing firearms.

(5) The department shall adopt regulations to administer the certificate of eligibility program and shall recover the full costs of administering the program by imposing fees assessed to applicants who apply for those certificates.

(6) A license granted by the duly constituted licensing authority of any city, county, or city and county, shall be valid for not more than one year from the date of issuance and shall be in one of the following forms:

(A) In the form prescribed by the Attorney General.

(B) A regulatory or business license which states on its face, "Valid for Retail Sales of Firearms," and is endorsed by the signature of the issuing authority.

(C) A letter from the duly constituted licensing authority having

primary jurisdiction for the applicant's intended business location stating that the jurisdiction does not require any form of regulatory or business license or does not otherwise restrict or regulate the sale of firearms.

(7) Local licensing authorities may assess fees to recover their full costs of processing applications for licenses.

(b) A license is subject to forfeiture for breach of any of the following prohibitions and requirements:

(1) (A) Except as provided in subparagraphs (B) and (C), the business shall be conducted only in the buildings designated in the license.

(B) A person licensed pursuant to subdivision (a), for purposes of complying with Section 12082, may take possession of firearms and commence preparation of registers for the sale, delivery, or transfer of firearms at gun shows or events, as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, provided the gun show or event is not conducted from any motorized or towed vehicle. A person conducting business pursuant to this subparagraph shall be entitled to conduct business as authorized herein at any gun show or event in the state without regard to the jurisdiction within this state that issued the license pursuant to subdivision (a).

A person licensed pursuant to subdivision (a), at gun shows and events, also may engage in the business of selling, leasing, or transferring firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, provided the person (i) complies with all other applicable provisions of law, including, but not limited to, the 15-day waiting period specified in subparagraph (A) of paragraph (3), and (ii) complies with all applicable local laws, regulations, and fees, if any.

A person conducting business pursuant to this subparagraph shall publicly display his or her license issued pursuant to subdivision (a), or a facsimile thereof, at any gun show or event, as specified in this subparagraph.

(C) A person licensed pursuant to subdivision (a) may engage in the sale and transfer of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, at events specified in subdivision (g) of Section 12078, subject to the prohibitions and restrictions contained in that subdivision.

A person licensed pursuant to subdivision (a) also may accept delivery of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, outside the building designated in the license, provided the firearm is being donated for the purpose of sale or transfer at an auction or similar event specified in subdivision (g) of Section 12078.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No firearm shall be delivered:

(A) Prior to January 1, 1996, within 15 days of the application for

the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 15 days of the application for the purchase of a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 10 days of the application for the purchase of any other firearm, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 10 days of the submission to the department of corrected copies of the register, or within 10 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(B) Unless unloaded.

(C) Unless one of the following applies:

(i) It is securely wrapped and, if it is capable of being equipped with a trigger-locking device, it is so equipped with a trigger-locking device purchased from the dealer at the time of delivery.

(ii) It is in a locked container.

(iii) It is in a locked gun rack purchased from the dealer at the time of delivery.

(D) Unless the purchaser or transferee either is personally known to the dealer or presents clear evidence of his or her identity and age to the dealer.

(E) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(4) No pistol, revolver, or other firearm capable of being concealed upon the person or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(5) The licensee shall agree to and shall act properly and promptly in processing transfers of firearms pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073 and 12077 and subdivisions (a) and (b) of Section 12072.

(7) The licensee shall post conspicuously within the licensed premises the following warning in block letters not less than three inches in height:

"IF YOU LEAVE A LOADED FIREARM WITHIN THE REACH OR EASY ACCESS OF A CHILD, YOU MAY BE FINED OR IMPRISONED, OR BOTH, IF THE CHILD GAINS ACCESS TO,

AND IMPROPERLY USES, THE FIREARM."

(8) Commencing October 1, 1993, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser or transferee presents to the dealer a basic firearm safety certificate.

(9) Commencing July 1, 1992, the licensee shall offer to provide the purchaser or transferee of a firearm with a copy of the pamphlet described in Section 12080 and may add the cost of the pamphlet, if any, to the sales price of the firearm.

(10) The licensee shall not commit an act of collusion as defined in Section 12072.

(c) (1) As used in this article, "clear evidence of his or her identity and age" includes, but is not limited to, a motor vehicle operator's license, a state identification card, an armed forces identification card, an employment identification card which contains the bearer's signature and photograph, or any similar documentation which provides the seller reasonable assurance of the identity and age of the purchaser.

(2) As used in this article, "trigger-locking device" means a device which is designed to prevent the firearm from functioning and which is locked by a padlock, key lock, combination lock, or similar locking device, that is reusable, and when applied to the weapon, renders the weapon inoperable.

(d) As used in this article, "a basic firearm safety certificate" means a basic firearm certificate issued to the purchaser or transferee by the Department of Justice pursuant to Article 8 (commencing with Section 12800) of Chapter 6.

SEC. 6. Section 12071.1 is added to the Penal Code, to read:

12071.1. (a) No person shall produce, promote, sponsor, operate, or otherwise organize a gun show or event, as specified in subparagraph (B) of paragraph (1) of subdivision (b) of Section 12071, unless that person possesses a valid certificate of eligibility from the Department of Justice. A certificate of eligibility shall be issued by the department to an applicant unless the department's records indicate that the applicant is a person prohibited from possessing firearms.

(b) The Department of Justice shall adopt regulations to administer the certificate of eligibility program under this section and shall recover the full costs of administering the program by fees assessed applicants who apply for certificates.

(c) A knowing violation of this section shall be a misdemeanor and make the person ineligible for a certificate of eligibility for one year from the date of the violation or conviction, whichever is later.

(d) No later than 24 hours prior to the commencement of a gun show or event, the producer or promoter thereof shall, upon request, make available within 24 hours, or a later specified time, to the local law enforcement agency a complete and accurate list of all persons, entities, and organizations that have leased or rented, or are known to the producer to intend to lease or rent, any table, display space,

or area at the gun show or event for the purpose of selling, leasing, or transferring firearms.

The producer shall thereafter, upon request, for every day the gun show or event operates, make available within 24 hours, or a later specified time, to the local law enforcement agency, an accurate, complete, and current list of the persons, entities, and organizations that have leased or rented, or are known to the producer to intend to lease or rent, any table, display space, or area at the gun show or event for the purpose of selling, leasing, or transferring firearms.

This subdivision applies to persons, entities, and organizations whether or not they participate in the entire gun show or event, or only a portion thereof.

(e) It is the intent of the Legislature that the certificate of eligibility program established pursuant to this section be incorporated into the certificate of eligibility program established pursuant to Section 12071 to the maximum extent practicable.

SEC. 7. Section 12077 of the Penal Code is amended to read:

12077. (a) (1) The Department of Justice shall prescribe the form of the register described in Section 12074. There shall be two forms of the register with the format set forth in paragraph (2) of this subdivision for pistols, revolvers, and other firearms capable of being concealed upon the person and the format set forth in paragraph (3) of this subdivision for all firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person.

(2) For pistols, revolvers, and other firearms capable of being concealed upon the person, information contained in the register shall be the date and time of sale, make of firearm, peace officer exemption status pursuant to subdivision (a) of Section 12078 and the agency name, manufacturer's name if stamped on the firearm, model name or number, if stamped on the firearm, if applicable, serial number, other number (if more than one serial number is stamped on the firearm), caliber, type of firearm, if the firearm is new or used, barrel length, color of the firearm, full name of purchaser, purchaser's complete date of birth, purchaser's local address, if current address is temporary, complete permanent address of purchaser, identification of purchaser, purchaser's place of birth (state or country), purchaser's complete telephone number, purchaser's occupation, purchaser's sex, purchaser's physical description, all legal names and aliases ever used by the purchaser, yes or no answer to questions that prohibit purchase including, but not limited to, conviction of a felony as described in Section 12021 or an offense described in Section 12021.1, the purchaser's status as a mental patient, or whether the purchaser is on leave of absence from a mental hospital pursuant to Section 8100 of the Welfare and Institutions Code, whether the purchaser is a person who has been adjudicated by a court to be a danger to others or found not guilty by reason of insanity, whether the purchaser is a person who has been found incompetent to stand trial or placed under conservatorship by a court pursuant to Section 8103 of the Welfare

and Institutions Code, signature of purchaser, signature of salesperson (as a witness to the purchaser's signature), name and complete address of the dealer or firm selling the firearm as shown on the dealer's license, the establishment number, if assigned, the dealer's complete business telephone number, and a statement that any person signing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the register is guilty of a misdemeanor.

(3) For firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, information contained in the register shall be the date and time of sale, peace officer exemption status pursuant to subdivision (a) of Section 12078 and the agency name, auction or event waiting period exemption pursuant to subdivision (g) of Section 12078, full name of purchaser, purchaser's complete date of birth, purchaser's local address, if current address is temporary, complete permanent address of purchaser, identification of purchaser, purchaser's place of birth (state or country), purchaser's complete telephone number, purchaser's occupation, purchaser's sex, purchaser's physical description, all legal names and aliases ever used by the purchaser, yes or no answer to questions that prohibit purchase, including, but not limited to, conviction of a felony as described in Section 12021 or an offense described in Section 12021.1, the purchaser's status as a mental patient, or whether the purchaser is on leave of absence from a mental hospital pursuant to Section 8100 of the Welfare and Institutions Code, whether the purchaser is a person who has been adjudicated by a court to be a danger to others or found not guilty by reason of insanity, whether the purchaser is a person who has been found incompetent to stand trial or placed under conservatorship by a court pursuant to Section 8103 of the Welfare and Institutions Code, signature of purchaser, signature of salesperson (as a witness to the purchaser's signature), name and complete address of the dealer or firm selling the firearm as shown on the dealer's license, the establishment number, if assigned, the dealer's complete business telephone number, and a statement that any person signing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the register is guilty of a misdemeanor.

(b) (1) The original of each dealer's record of sale of a firearm document shall be retained by the dealer in consecutive order. Each book of 50 originals shall become the permanent register of transactions that shall be retained for not less than three years from the date of last transaction and shall be provided for the inspection of any peace officer, Department of Justice employee designated by the Attorney General or agents of the federal Bureau of Alcohol, Tobacco, and Firearms upon the presentation of proper identification.

(2) Dealers shall use ink to complete each document.

(3) The dealer or salesperson making a sale shall ensure that all information is provided legibly. The dealer and salespersons shall be informed that incomplete or illegible information will delay sales.

(4) Each original shall contain instructions regarding the procedure for completion of the form and routing of the form. Dealers shall comply with these instructions which shall include the information set forth in this subdivision.

(5) One firearm transaction shall be reported on each record of sale document.

(c) As used in this section, the following definitions shall control:

(1) "Purchaser" means the purchaser or transferee of a firearm.

(2) "Purchase" means the purchase or transfer of a firearm.

SEC. 7.1. Section 12077 of the Penal Code is amended to read:

12077. (a) (1) The Department of Justice shall prescribe the form of the register described in Section 12074. There shall be two forms of the register with the format set forth in paragraph (2) of this subdivision for pistols, revolvers, and other firearms capable of being concealed upon the person and the format set forth in paragraph (3) of this subdivision for all firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person.

(2) For pistols, revolvers, and other firearms capable of being concealed upon the person, information contained in the register shall be the date and time of sale, make of firearm, peace officer exemption status pursuant to subdivision (a) of Section 12078 and the agency name, manufacturer's name if stamped on the firearm, model name or number, if stamped on the firearm, if applicable, serial number, other number (if more than one serial number is stamped on the firearm), caliber, type of firearm, if the firearm is new or used, barrel length, color of the firearm, full name of purchaser, purchaser's complete date of birth, purchaser's local address, if current address is temporary, complete permanent address of purchaser, identification of purchaser, purchaser's place of birth (state or country), purchaser's complete telephone number, purchaser's occupation, purchaser's sex, purchaser's physical description, all legal names and aliases ever used by the purchaser, yes or no answer to questions that prohibit purchase including, but not limited to, conviction of a felony as described in Section 12021 or an offense described in Section 12021.1, the purchaser's status as a person described in Section 8100 of the Welfare and Institutions Code, whether the purchaser is a person who has been adjudicated by a court to be a danger to others or found not guilty by reason of insanity, whether the purchaser is a person who has been found incompetent to stand trial or placed under conservatorship by a court pursuant to Section 8103 of the Welfare and Institutions Code, signature of purchaser, signature of salesperson (as a witness to the purchaser's signature), name and complete address of the dealer or firm selling the firearm as shown on the dealer's license, the establishment number, if assigned, the dealer's complete business

telephone number, and a statement that any person signing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the register is guilty of a misdemeanor.

(3) For firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, information contained in the register shall be the date and time of sale, peace officer exemption status pursuant to subdivision (a) of Section 12078 and the agency name, auction or event waiting period exemption pursuant to subdivision (g) of Section 12078, full name of purchaser, purchaser's complete date of birth, purchaser's local address, if current address is temporary, complete permanent address of purchaser, identification of purchaser, purchaser's place of birth (state or country), purchaser's complete telephone number, purchaser's occupation, purchaser's sex, purchaser's physical description, all legal names and aliases ever used by the purchaser, yes or no answer to questions that prohibit purchase, including, but not limited to, conviction of a felony as described in Section 12021 or an offense described in Section 12021.1, the purchaser's status as a person described in Section 8100 of the Welfare and Institutions Code, whether the purchaser is a person who has been adjudicated by a court to be a danger to others or found not guilty by reason of insanity, whether the purchaser is a person who has been found incompetent to stand trial or placed under conservatorship by a court pursuant to Section 8103 of the Welfare and Institutions Code, signature of purchaser, signature of salesperson (as a witness to the purchaser's signature), name and complete address of the dealer or firm selling the firearm as shown on the dealer's license, the establishment number, if assigned, the dealer's complete business telephone number, and a statement that any person signing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the register is guilty of a misdemeanor.

(b) (1) The original of each dealer's record of sale of a firearm document shall be retained by the dealer in consecutive order. Each book of 50 originals shall become the permanent register of transactions that shall be retained for not less than three years from the date of last transaction and shall be provided for the inspection of any peace officer, Department of Justice employee designated by the Attorney General or agents of the federal Bureau of Alcohol, Tobacco, and Firearms upon the presentation of proper identification.

(2) Dealers shall use ink to complete each document.

(3) The dealer or salesperson making a sale shall ensure that all information is provided legibly. The dealer and salespersons shall be informed that incomplete or illegible information will delay sales.

(4) Each original shall contain instructions regarding the procedure for completion of the form and routing of the form. Dealers shall comply with these instructions which shall include the

information set forth in this subdivision.

(5) One firearm transaction shall be reported on each record of sale document.

(c) As used in this section, the following definitions shall control:

(1) "Purchaser" means the purchaser or transferee of a firearm.

(2) "Purchase" means the purchase or transfer of a firearm.

SEC. 8. Section 12078 of the Penal Code, as amended by Chapter 5 of the Statutes of 1991, is amended to read:

12078. (a) The preceding provisions of this article do not apply to deliveries, transfers, or sales of firearms made to persons properly identified as full-time paid peace officers as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, provided that the peace officers are authorized by their employer to carry firearms while in the performance of their duties, nor to deliveries, transfers, or sales of firearms made to authorized representatives of cities, cities and counties, counties, state or federal governments for use by those governmental agencies. Proper identification is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the purchaser or transferee as a peace officer who is authorized to carry firearms while in the performance of his or her duties, and authorizing the purchase or transfer. The certification shall be delivered to the seller or transferor at the time of purchase and transfer and the purchaser or transferee shall identify himself or herself as the person authorized in the certification. On the day the sale, delivery, or transfer is made, where a peace officer is receiving the firearm, and a dealer is not the seller or transferor, or is not otherwise the person responsible for the delivery of the firearm, the peace officer shall forward by prepaid mail to the Department of Justice a report of the same and the type of information concerning the seller or transferor, the buyer or transferee, and the firearm as is indicated in Section 12077. On the day the sale, delivery, or transfer is made, where a dealer is the seller, transferor, or otherwise responsible for delivery of the firearm, the dealer shall forward by prepaid mail to the Department of Justice a report of the same and the type of information concerning the buyer or transferee and the firearm as is indicated in Section 12077. The reports which peace officers shall complete shall be provided to them by the department at cost. All receipts from the sale of these forms shall be deposited into the Dealer's Record of Sale Special Account of the General Fund. No report need be submitted to the Department of Justice where a peace officer receiving the firearm received it from his or her employer in accordance with the applicable rules, regulations, or procedures of the employer.

(b) Section 12070 and subdivisions (c) and (d) of Section 12072 shall not apply to deliveries, sales, or transfers of firearms between or to importers and manufacturers of firearms licensed to engage in such business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(c) Subdivision (d) of Section 12072 shall not apply to the infrequent transfers of firearms by gift, bequest, intestate succession, or other means by one individual to another where both individuals are members of the same immediate family.

As used in this subdivision, immediate family member includes the third lineal degree of consanguinity.

(d) Subdivision (d) of Section 12072 shall not apply to the infrequent loan of firearms between persons who are personally known to each other for any lawful purpose, if the loan does not exceed 30 days in duration.

(e) Section 12071 and subdivisions (c) and (d) of Section 12072 shall not apply to the delivery of a firearm to a gunsmith for service or repair.

(f) Section 12070 shall not apply to the sale, delivery, or transfer of firearms by manufacturers or importers licensed pursuant to Chapter 44 (commencing with Section 921) of Chapter 18 of the United States Code and the regulations issued pursuant thereto to dealers licensed pursuant to Section 12071.

(g) (1) Subdivision (d) of Section 12072 shall not apply to the infrequent sale or transfer of a firearm other than a pistol, revolver, or other firearm capable of being concealed upon the person, at auctions or similar events conducted by nonprofit mutual or public benefit corporations organized pursuant to the Corporations Code.

As used in this paragraph, the term "infrequent" shall not be construed to prohibit different local chapters of the same nonprofit corporation from conducting auctions or similar events, provided the individual local chapter conducts the auctions or similar events infrequently. It is the intent of the Legislature that different local chapters, representing different localities, be entitled to invoke the exemption created by this paragraph, notwithstanding the frequency with which other chapters of the same nonprofit corporation may conduct auctions of similar events.

(2) Subdivision (d) of Section 12072 shall not apply to the transfer of a firearm other than a pistol, revolver, or other firearm capable of being concealed upon the person, if the firearm is donated for an auction or similar event described in paragraph (1) and the firearm is delivered to the nonprofit corporation immediately preceding, or contemporaneous with, the auction or similar event.

(3) The waiting period described in Sections 12071 and 12072 shall not apply to a dealer who delivers a firearm other than a pistol, revolver, or other firearm capable of being concealed upon the person, at an auction or similar event described in paragraph (1), as authorized by subparagraph (C) of paragraph (1) of subdivision (b) of Section 12071. Within 48 hours of the sale, delivery, or transfer, the dealer shall forward by prepaid mail to the Department of Justice a report of the same as is indicated in paragraph (3) of subdivision (a) of Section 12077.

SEC. 8.1. Section 12078 of the Penal Code, as amended by Chapter 5 of the Statutes of 1991, is amended to read:

12078. (a) The preceding provisions of this article do not apply to deliveries, transfers, or sales of firearms made to persons properly identified as full-time paid peace officers as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, provided that the peace officers are authorized by their employer to carry firearms while in the performance of their duties, nor to deliveries, transfers, or sales of firearms made to authorized representatives of cities, cities and counties, counties, state or federal governments for use by those governmental agencies. Proper identification is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the purchaser or transferee as a peace officer who is authorized to carry firearms while in the performance of his or her duties, and authorizing the purchase or transfer. The certification shall be delivered to the seller or transferor at the time of purchase and transfer and the purchaser or transferee shall identify himself or herself as the person authorized in the certification. On the day the sale, delivery, or transfer is made, where a peace officer is receiving the firearm, and either a dealer is not the seller or transferor, or is not otherwise the person responsible for the delivery of the firearm, or the transfer or sale is not conducted through a law enforcement agency pursuant to Section 12084, the peace officer shall forward by prepaid mail to the Department of Justice a report of the same and the type of information concerning the seller or transferor, the buyer or transferee, and the firearm as is indicated in Section 12077. On the day the sale, delivery, or transfer is made, where a dealer is the seller, transferor, or otherwise responsible for delivery of the firearm, the dealer shall forward by prepaid mail to the Department of Justice a report of the same and the type of information concerning the buyer or transferee and the firearm as is indicated in Section 12077. On the day the sale, delivery, or transfer is made, where the transfer is conducted pursuant to Section 12084, the law enforcement agency shall forward by prepaid mail to the Department of Justice a report of the same and the type of information concerning the buyer or transferee and the firearm as is indicated in Section 12084. The reports which peace officers shall complete shall be provided to them by the department at cost. All receipts from the sale of these forms shall be deposited into the Dealer's Record of Sale Special Account of the General Fund. No report need be submitted to the Department of Justice where a peace officer receiving the firearm received it from his or her employer in accordance with the applicable rules, regulations, or procedures of the employer.

(b) Section 12070 and subdivisions (c) and (d) of Section 12072 shall not apply to deliveries, sales, or transfers of firearms between or to importers and manufacturers of firearms licensed to engage in such business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(c) Subdivision (d) of Section 12072 shall not apply to the

infrequent transfers of firearms by gift, bequest, intestate succession, or other means by one individual to another where both individuals are members of the same immediate family.

As used in this subdivision, immediate family member includes the third lineal degree of consanguinity.

(d) Subdivision (d) of Section 12072 shall not apply to the infrequent loan of firearms between persons who are personally known to each other for any lawful purpose, if the loan does not exceed 30 days in duration.

(e) Section 12071 and subdivisions (c) and (d) of Section 12072 shall not apply to the delivery of a firearm to a gunsmith for service or repair.

(f) Section 12070 shall not apply to the sale, delivery, or transfer of firearms by manufacturers or importers licensed pursuant to Chapter 44 (commencing with Section 921) of Chapter 18 of the United States Code and the regulations issued pursuant thereto to dealers licensed pursuant to Section 12071.

(g) (1) Subdivision (d) of Section 12072 shall not apply to the infrequent sale or transfer of a firearm, other than a pistol, revolver, or other firearm capable of being concealed upon the person, at auctions or similar events conducted by nonprofit mutual or public benefit corporations organized pursuant to the Corporations Code.

As used in this paragraph, the term "infrequent" shall not be construed to prohibit different local chapters of the same nonprofit corporation from conducting auctions or similar events, provided the individual local chapter conducts the auctions or similar events infrequently. It is the intent of the Legislature that different local chapters, representing different localities, be entitled to invoke the exemption created by this paragraph, notwithstanding the frequency with which other chapters of the same nonprofit corporation may conduct auctions of similar events.

(2) Subdivision (d) of Section 12072 shall not apply to the transfer of a firearm other than a pistol, revolver, or other firearm capable of being concealed upon the person, if the firearm is donated for an auction or similar event described in paragraph (1) and the firearm is delivered to the nonprofit corporation immediately preceding, or contemporaneous with, the auction or similar event.

(3) The waiting period described in Sections 12071 and 12072 shall not apply to a dealer who delivers a firearm other than a pistol, revolver, or other firearm capable of being concealed upon the person, at an auction or similar event described in paragraph (1), as authorized by subparagraph (C) of paragraph (1) of subdivision (b) of Section 12071. Within 48 hours of the sale, delivery, or transfer, the dealer shall forward by prepaid mail to the Department of Justice a report of the same as is indicated in paragraph (3) of subdivision (a) of Section 12077.

(h) Section 12070 and subdivision (d) of Section 12072 shall not apply to the loan of a firearm for the purposes of shooting at targets if the loan occurs on the premises of a target facility which holds a

business or regulatory license or on the premises of any club or organization organized for the purposes of practicing shooting at targets upon established ranges, whether public or private, if the firearm is at all times kept within the premises of the target range or on the premises of the club or organization.

SEC. 9. Section 12082 of the Penal Code, as amended by Chapter 5 of the Statutes of 1991, is amended to read:

12082. A person shall complete any sale or other transfer of a firearm through a dealer licensed pursuant to Section 12071 in accordance with this section in order to comply with subdivision (d) of Section 12072. The Attorney General shall adopt regulations under this section to allow the seller or transferor and the purchaser or transferee to complete a sale or other transfer through a dealer, and to allow those persons and the dealer to comply with the requirements of this section and of Sections 12071, 12072, 12076, and 12077 and to preserve the confidentiality of records. The register shall state the name and address of the seller or transferor of the firearm in addition to any other information required by Section 12077. The seller or transferor shall deliver the firearm to the dealer who shall retain possession of that firearm. The dealer shall then deliver the firearm to the purchaser or transferee, if it is not prohibited, in accordance with the provisions of subdivision (c) of Section 12072. If the dealer cannot legally transfer the firearm to the purchaser or transferee, the dealer shall forthwith, without waiting for the conclusion of the waiting period described in Sections 12071 and 12072, return the firearm to the transferor or seller. The dealer shall not return the firearm to the seller or transferor when to do so would constitute a violation of subdivision (a) of Section 12072. If the dealer cannot legally return the firearm to the transferor or seller, then the dealer shall forthwith deliver the firearm to the sheriff of the county or the chief of police or other head of a municipal police department of any city or city and county who shall then dispose of the firearm in the manner provided by Sections 12028 and 12032. The purchaser or transferee may be required by the dealer to pay a fee not to exceed ten dollars ($10), plus the fee which the Department of Justice may charge pursuant to subdivision (d) of Section 12076. Nothing in these provisions shall prevent a dealer from charging a smaller fee. The fee that the department may charge is the fee that would be applicable pursuant to subdivision (d) of Section 12076, if the dealer was selling, transferring, or delivering a firearm to a purchaser or transferee without any other parties being involved in the transaction.

A violation of this section by a dealer is a misdemeanor.

SEC. 10. Section 8103 of the Welfare and Institutions Code is amended to read:

8103. (a) (1) No person who after October 1, 1955, has been adjudicated by a court of any state to be a danger to others as a result of mental disorder or mental illness, or who has been adjudicated to be a mentally disordered sex offender, shall purchase or receive, or

attempt to purchase or receive, or have in his or her possession, custody, or control any firearm or any other deadly weapon unless there has been issued to the person a certificate by the court of adjudication upon release from treatment or at a later date stating that the person may possess a firearm or any other deadly weapon without endangering others, and the person has not, subsequent to the issuance of the certificate, again been adjudicated by a court to be a danger to others as a result of a mental disorder or mental illness.

(2) The court shall immediately notify the Department of Justice of the court order finding the individual to be a person described in paragraph (1). The court shall also notify the Department of Justice of any certificate issued as described in paragraph (1).

(b) (1) No person who has been found, pursuant to Section 1026 of the Penal Code or the law of any other state or the United States, not guilty by reason of insanity of murder, mayhem, a violation of Section 207 or 209 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, robbery in which the victim suffers great bodily injury, a violation of Section 451 or 452 of the Penal Code involving a trailer coach, as defined in Section 635 of the Vehicle Code, or any dwelling house, a violation of subdivision (2) or (3) of Section 261 of the Penal Code, a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 12303.1, 12303.2, 12303.3, 12308, 12309, or 12310 of the Penal Code, or of a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, or a violation of the law of any other state or the United States which includes all the elements of any of the above felonies as defined under California law, shall purchase or receive, or attempt to purchase or receive, or have in his or her possession or under his or her custody or control any firearm or any other deadly weapon.

(2) The court shall immediately notify the Department of Justice of the court order finding the person to be a person described in paragraph (1).

(c) (1) No person who has been found, pursuant to Section 1026 of the Penal Code or the law of any other state or the United States, not guilty by reason of insanity of any crime other than those described in subdivision (b) shall purchase or receive, or attempt to purchase or receive, or shall have in his or her possession, custody, or control any firearm or any other deadly weapon unless the court of commitment has found the person to have recovered sanity, pursuant to Section 1026.2 of the Penal Code or the law of any other state or the United States.

(2) The court shall immediately notify the Department of Justice of the court order finding the person to be a person described in paragraph (1). The court shall also notify the Department of Justice when it finds that the person has recovered his or her sanity.

(d) (1) No person found by a court to be mentally incompetent

to stand trial, pursuant to Section 1370 or 1370.1 of the Penal Code or the law of any other state or the United States, shall purchase or receive, or attempt to purchase or receive, or shall have in his or her possession, custody, or control any firearm or any other deadly weapon, unless there has been a finding with respect to the person of restoration to competence to stand trial by the committing court, pursuant to Section 1372 of the Penal Code or the law of any other state or the United States.

(2) The court shall immediately notify the Department of Justice of the court order finding the person to be mentally incompetent as described in paragraph (1). The court shall also notify the Department of Justice when it finds that the person has recovered his or her competence.

(e) (1) No person who has been placed under conservatorship by a court, pursuant to Section 5350 or the law of any other state or the United States, because the person is gravely disabled as a result of a mental disorder or impairment by chronic alcoholism shall purchase or receive, or attempt to purchase or receive, or shall have in his or her possession, custody, or control any firearm or any other deadly weapon while under the conservatorship if, at the time the conservatorship was ordered or thereafter, the court which imposed the conservatorship found that possession of a firearm or any other deadly weapon by the person would present a danger to the safety of the person or to others. Upon placing any person under conservatorship, and prohibiting firearm or any other deadly weapon possession by the person the court shall notify the person of this prohibition.

(2) The court shall immediately notify the Department of Justice of the court order placing the person under conservatorship and prohibiting firearm or any other deadly weapon possession by the person as described in paragraph (1). The notice shall include the date the conservatorship was imposed and the date the conservatorship is to be terminated. If the conservatorship is subsequently terminated before the date listed in the notice to the Department of Justice or the court subsequently finds that possession of a firearm or any other deadly weapon by the person would no longer present a danger to the safety of the person or others, the court shall immediately notify the Department of Justice.

(3) All information provided to the Department of Justice pursuant to paragraph (2) shall be kept confidential, separate, and apart from all other records maintained by the department, and shall be used only to determine eligibility to purchase or possess firearms or other deadly weapons. Any person who knowingly furnishes any such information for any other purpose is guilty of a misdemeanor. All such information concerning any person shall be destroyed upon receipt by the Department of Justice of notice of the termination of conservatorship as to that person pursuant to paragraph (2).

(f) (1) No person who has been (A) taken into custody as provided in Section 5150 because that person is a danger to himself,

herself, or to others, (B) assessed within the meaning of Section 5151, and (C) admitted to a designated facility within the meaning of Sections 5151 and 5152 because that person is a danger to himself, herself, or others, shall own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm for a period of five years after the person is released from the facility. A person described in the preceding sentence, however, may own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm if, at or prior to being released, the person is certified by the professional person in charge of the facility or his or her designee to be a person who is likely to use firearms in a safe and lawful manner or if the superior court has, pursuant to paragraph (4), upon petition of the person, found, by a preponderance of the evidence, that the person is likely to use firearms in a safe and lawful manner.

(2) For each person subject to this subdivision, the facility shall immediately, on the date of admission, submit a report to the Department of Justice, on a form prescribed by the department, containing information which includes, but is not limited to, the identity of the person and the legal grounds upon which the person was admitted to the facility.

Any report prescribed by this subdivision shall be confidential, except for purposes of the court proceedings described in this subdivision and for determining the eligibility of the person to own, possess, control, receive, or purchase a firearm. The state summary criminal history may state that the person is prohibited from owning, possessing, controlling, receiving, or purchasing a firearm under this subdivision or any other provision of law.

(3) Prior to, or concurrent with, the discharge, the facility shall inform a person subject to this subdivision that he or she is prohibited from owning, possessing, controlling, receiving, or purchasing any firearm for a period of five years. Simultaneously, the facility shall inform the person that he or she may petition a court, as provided in this subdivision, for an order permitting the person to own, possess, control, receive, or purchase a firearm.

(4) Any person who is subject to paragraph (1) may petition the superior court of his or her county of residence for an order that he or she may own, possess, control, receive, or purchase firearms. At the time the petition is filed, the clerk of the court shall set a hearing date and notify the person, the Department of Justice, and the district attorney. The People of the State of California shall be the respondent in the proceeding and shall be represented by the district attorney. Upon motion of the district attorney, or on its own motion, the superior court may transfer the petition to the county in which the person resided at the time of his or her detention, the county in which the person was detained, or the county in which the person was evaluated or treated. Within seven days after receiving notice of the petition, the Department of Justice shall file copies of the reports described in Section 8103 with the superior court. The

reports shall be disclosed upon request to the person and to the district attorney. The district attorney shall be entitled to a continuance of the hearing to a date of not less than 14 days after the district attorney was notified of the hearing date by the clerk of the court. Notwithstanding any other provision of law, declarations, police reports, including criminal history information, and any other material and relevant evidence which is not excluded under Section 352 of the Evidence Code, shall be admissible at the hearing under this section. If the court finds by a preponderance of the evidence that the person would be likely to use firearms in a safe and lawful manner, the court may order that the person may own, control, receive, possess, or purchase firearms. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the Department of Justice shall delete any reference to the prohibition against firearms from the person's state summary criminal history information.

(g) (1) No person who has been certified for intensive treatment under Section 5250, 5260, or 5270.15 shall own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm for a period of five years.

Any person who meets the criteria contained in subdivision (e) or (f) who is released from intensive treatment shall nevertheless, if applicable, remain subject to the prohibition contained in subdivision (e) or (f).

(2) For each person certified for intensive treatment under paragraph (1), the facility shall immediately submit a report to the Department of Justice, on a form prescribed by the department, containing information regarding the person, including, but not limited to, the legal identity of the person and the legal grounds upon which the person was certified. Any report submitted pursuant to this paragraph shall only be used for the purposes specified in paragraph (2) of subdivision (f).

(3) Prior to, or concurrent with, the discharge of each person certified for intensive treatment under paragraph (1), the facility shall inform the person of that information specified in paragraph (3) of subdivision (f).

(4) Any person who is subject to the prohibition contained in paragraph (1) may fully invoke the provisions of paragraph (4) of subdivision (f).

(h) For all persons identified in subdivisions (f) and (g), facilities shall report to the Department of Justice as specified in those subdivisions, except facilities shall not report persons under subdivision (g) if the same persons previously have been reported under subdivision (f).

Additionally, all facilities shall report to the Department of Justice upon the discharge of persons from whom reports have been submitted pursuant to subdivision (f) or (g).

(i) Every person who owns or possesses or has under his or her custody or control, or purchases or receives, or attempts to purchase

or receive, any firearm or any other deadly weapon in violation of this section is guilty of a felony which is punishable by imprisonment in the state prison, or in the county jail for not more than one year, and which is subject to subdivision (b) of Section 17 of the Penal Code.

(j) "Deadly weapon," as used in this section, has the meaning prescribed by Section 8100.

SEC. 11. Section 1.1 of this bill incorporates amendments to Section 12001 of the Penal Code proposed by both this bill and AB 618. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 12001 of the Penal Code, and (3) this bill is enacted after AB 618, in which case Section 1 of this bill shall not become operative.

SEC. 12. Section 3 of this bill incorporates amendments to Section 12021 of the Penal Code proposed by both this bill and AB 108. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2) each bill amends Section 12021 of the Penal Code, and (3) this bill is enacted after AB 108, in which case Section 12021 of the Penal Code, as amended by AB 108, shall remain operative only until the operative date of this bill, at which time Section 3 of this bill shall become operative, and Section 2 of this bill shall not become operative.

SEC. 13. Section 4.1 of this bill incorporates amendments to Section 12070 of the Penal Code proposed by both this bill and AB 664. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 12070 of the Penal Code, and (3) this bill is enacted after AB 664, in which case Section 4 of this bill shall not become operative.

SEC. 14. (a) Section 5.1 of this bill incorporates amendments to Section 12071 of the Penal Code proposed by both this bill and AB 618. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 12071 of the Penal Code, (3) AB 2029 and SB 134 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 242, in which case Sections 5, 5.2, 5.3, 5.4, 5.5, 5.6, and 5.7 of this bill shall not become operative.

(b) Section 5.2 of this bill incorporates amendments to Section 12071 of the Penal Code proposed by both this bill and AB 2029. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 12071 of the Penal Code, (3) AB 618 and SB 134 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 2029, in which case Sections 5, 5.1, 5.3, 5.4, 5.5, 5.6, and 5.7 of this bill shall not become operative.

(c) Section 5.3 of this bill incorporates amendments to Section 12071 of the Penal Code proposed by both this bill and SB 134. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 12071 of the Penal Code, (3) AB 618 and AB 2029 are not enacted or as enacted

do not amend that section, and (4) this bill is enacted after SB 134, in which case Sections 5, 5.1, 5.2, 5.4, 5.5, 5.6, and 5.7 of this bill shall not become operative.

(d) Section 5.4 of this bill incorporates amendments to Section 12071 of the Penal Code proposed by this bill, AB 2029 and SB 134. It shall only become operative if (1) all three bills are enacted and become effective on January 1, 1992, (2) all three bills amend Section 12071 of the Penal Code, (3) AB 618 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2029 and SB 134, in which case Sections 5, 5.1, 5.2, 5.3, 5.5, 5.6, and 5.7 of this bill shall not become operative.

(e) Section 5.5 of this bill incorporates amendments to Section 12071 of the Penal Code proposed by this bill, AB 618, and AB 2029. It shall only become operative if (1) all three bills are enacted and become effective on January 1, 1992, (2) all three bills amend Section 12071 of the Penal Code, (3) SB 134 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 618 and AB 2029, in which case Sections 5, 5.1, 5.2, 5.3, 5.4, 5.6, and 5.7 of this bill shall not become operative.

(f) Section 5.6 of this bill incorporates amendments to Section 12071 of the Penal Code proposed by this bill, AB 618, and SB 134. It shall only become operative if (1) all three bills are enacted and become effective on January 1, 1992, (2) all three bills amend Section 12071 of the Penal Code, (3) AB 2029 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 618 and SB 134, in which case Sections 5, 5.1, 5.2, 5.3, 5.4, 5.5, and 5.7 of this bill shall not become operative.

(g) Section 5.7 of this bill incorporates amendments to Section 12071 of the Penal Code proposed by this bill, AB 618, AB 2029, and SB 134. It shall only become operative if (1) all four bills are enacted and become effective on January 1, 1992, (2) all four bills amend Section 12071 of the Penal Code, and (3) this bill is enacted after AB 618, AB 2029, and SB 134, in which case Sections 5, 5.1, 5.2, 5.3, 5.4, 5.5, and 5.6 of this bill shall not become operative.

SEC. 15. Section 7.1 of this bill incorporates amendments to Section 12077 of the Penal Code proposed by both this bill and AB 664. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 12077 of the Penal Code, and (3) this bill is enacted after AB 664, in which case Section 7 of this bill shall not become operative.

SEC. 16. Section 8.1 of this bill incorporates amendments to Section 12078 of the Penal Code proposed by both this bill and AB 664. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 12078 of the Penal Code, and (3) this bill is enacted after AB 664, in which case Section 8 of this bill shall not become operative.

SEC. 17. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district

will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 956

An act to amend Section 12071 of, and to add Section 12035 to, the Penal Code, relating to firearms.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. This act shall be known, and may be cited, as the Children's Firearm Accident Prevention Act of 1991.

SEC. 2. Section 12035 is added to the Penal Code, to read:

12035. (a) As used in this section, the following definitions shall apply:

(1) "Locking device" means a device which temporarily prevents the firearm from functioning.

(2) "Loaded firearm" has the same meaning as set forth in subdivision (g) of Section 12031.

(3) "Child" means a person under 14 years of age.

(4) "Great bodily injury" has the same meaning as set forth in Section 12022.7.

(5) "Locked container" has the same meaning as set forth in subdivision (d) of Section 12026.2.

(b) (1) Except as provided in subdivision (c), a person commits the crime of "criminal storage of a firearm of the first degree" if he or she keeps any loaded firearm within any premise which is under his or her custody or control and he or she knows or reasonably should know that a child is likely to gain access to the firearm without the permission of the child's parent or legal guardian and the child obtains access to the firearm and thereby causes death or great bodily injury to himself, herself, or any other person.

(2) Except as provided in subdivision (c), a person commits the crime of "criminal storage of a firearm of the second degree" if he or she keeps any loaded firearm within any premise which is under his or her custody or control and he or she knows or reasonably should know that a child is likely to gain access to the firearm without the permission of the child's parent or legal guardian and the child obtains access to the firearm and thereby causes injury, other than great bodily injury, to himself, herself, or any other person, or

exhibits the firearm either in a public place or in violation of Section 417.

(c) Subdivision (b) shall not apply whenever any of the following occurs:

(1) The child obtains the firearm as a result of an illegal entry to any premises by any person.

(2) The firearm is kept in a locked container or in a location which a reasonable person would believe to be secure.

(3) The firearm is carried on the person or within such a close proximity thereto so that the individual can readily retrieve and use the firearm as if carried on the person.

(4) The firearm is equipped with a locking device.

(5) The person is a peace officer or a member of the armed forces or national guard and the child obtains the firearm during, or incidental to, the performance of the person's duties.

(6) The child obtains, or obtains and discharges, the firearm in a lawful act of self-defense or defense of another person, or persons.

(7) The person who keeps a loaded firearm on any premise which is under his or her custody or control has no reasonable expectation, based on objective facts and circumstances, that a child is likely to be present on the premise.

(d) Criminal storage of a firearm is punishable as follows:

(1) Criminal storage of a firearm in the first degree, by imprisonment in the state prison for 16 months, or 2 or 3 years, by a fine not exceeding ten thousand dollars ($10,000), or by both that imprisonment and fine; or by imprisonment in a county jail not exceeding one year, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(2) Criminal storage of a firearm in the second degree, by imprisonment in a county jail not exceeding one year, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(e) If the person who allegedly violated this section is the parent or guardian of a child who is injured or who dies as the result of an accidental shooting, the district attorney shall consider, among other factors, the impact of the injury or death on the person alleged to have violated this section when deciding whether to prosecute an alleged violation. It is the Legislature's intent that a parent or guardian of a child who is injured or who dies as the result of an accidental shooting shall be prosecuted only in those instances in which the parent or guardian behaved in a grossly negligent manner or where similarly egregious circumstances exist. This subdivision shall not otherwise restrict, in any manner, the factors that a district attorney may consider when deciding whether to prosecute alleged violations of this section.

(f) If the person who allegedly violated this section is the parent or guardian of a child who is injured or who dies as the result of an accidental shooting, no arrest of the person for the alleged violation of this section shall occur until at least seven days after the date upon

which the accidental shooting occurred.

In addition to the limitation contained in this subdivision, a law enforcement officer shall consider the health status of a child who suffers great bodily injury as the result of an accidental shooting prior to arresting a person for a violation of this section, if the person to be arrested is the parent or guardian of the injured child. The intent of this subdivision is to encourage law enforcement officials to delay the arrest of a parent or guardian of a seriously injured child while the child remains on life-support equipment or is in a similarly critical medical condition.

(g) (1) The fact that the person who allegedly violated this section attended a firearm safety training course prior to the purchase of the firearm that is obtained by a child in violation of this section shall be considered a mitigating factor by a district attorney when he or she is deciding whether to prosecute the alleged violation.

(2) In any action or trial commenced under this section, the fact that the person who allegedly violated this section attended a firearm safety training course prior to the purchase of the firearm that is obtained by a child in violation of this section, shall be admissible.

SEC. 3. Section 12071 of the Penal Code is amended to read:

12071. (a) (1) The duly constituted licensing authorities of any city, county, or city and county shall accept applications for, and may grant, licenses permitting the licensee to sell at retail within the city, county, or city and county, any firearms. If a license is granted, it shall be either in the form of a regulatory or business license or in the form prescribed by the Attorney General. The license shall be valid for not more than one year from the date of issue.

(2) The Department of Justice shall issue a statewide gun show license to all persons licensed pursuant to paragraph (1) upon demonstration by the person that he or she currently is licensed under paragraph (1). The department shall adopt regulations to implement this license program. The full costs incurred by the department in administering this program shall be recovered by fees assessed on persons who apply for a statewide gun show license.

(b) A license is subject to forfeiture for a breach of any of the following prohibitions and requirements:

(1) (A) Except as provided in subparagraph (B), the business shall be carried on only in the building designated in the license.

(B) A person licensed pursuant to subdivision (a) may, for purposes of complying with Section 12082, take possession of the firearm and commence preparation of the register for the sale, delivery, or transfer of firearms at a gun show or event, as defined in paragraph (b) of Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, if the gun show or event is not conducted from any motorized or towed vehicle and the licensee has obtained a statewide gun show license from the Department of Justice.

(2) The license or a copy thereof, certified by the issuing

authority, shall be displayed on the premises where it can easily be seen.

(3) No firearm shall be delivered:

(A) Prior to January 1, 1996, within 15 days of the application for the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 15 days of the application for the purchase of a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 10 days of the application for the purchase of any other firearm, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 10 days of the submission to the department of corrected copies of the register, or within 10 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(B) Unless unloaded and securely wrapped or unloaded and in a locked container.

(C) Unless the purchaser or transferee either is personally known to the dealer or presents clear evidence of his or her identity and age to the dealer.

(D) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(4) No pistol, revolver, or other firearm capable of being concealed upon the person or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(5) The licensee shall agree to and shall act properly and promptly in processing transfers of firearms pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073 and 12077 and subdivisions (a) and (b) of Section 12072.

(7) The licensee shall post conspicuously within the licensed premises the following warning in block letters not less than three inches in height:

"IF YOU LEAVE A LOADED FIREARM WITHIN THE REACH OR EASY ACCESS OF A CHILD, YOU MAY BE FINED OR IMPRISONED, OR BOTH, IF THE CHILD GAINS ACCESS TO, AND IMPROPERLY USES, THE FIREARM."

(8) All persons who receive a statewide gun show license shall

publicly display the license at any gun show at which the licensee conducts activities as authorized pursuant to subparagraph (B) of paragraph (1).

(c) As used in this article, "clear evidence of his or her identity and age" includes, but is not limited to, a motor vehicle operator's license, a state identification card, an armed forces identification card, an employment identification card which contains the bearer's signature and photograph, or any similar documentation which provides the seller reasonable assurance of the identity and age of the purchaser.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 957

An act to amend Section 1 of Chapter 1648 of the Statutes of 1990, relating to transportation, and making an appropriation therefor.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 1 of Chapter 1648 of the Statutes of 1990 is amended to read:

Section 1. Notwithstanding Sections 13340 and 16361 of the Government Code and to the extent permitted by federal law, the sum of seven million four hundred ninety-five thousand dollars ($7,495,000) of the money in the Federal Trust Fund, created by Section 16360 of the Government Code, received by the state from federal oil overcharge funds in the Petroleum Violation Escrow Account, as defined by Section 155 of the Further Continuing

Appropriations Act of 1983 (P.L. 97-377) or other federal law, and received by the state from federal oil overcharge funds available pursuant to court judgments or federal agency orders, is hereby appropriated to the State Energy Resources Conservation and Development Commission for allocation as follows:

(a) $300,000 to the County of Santa Clara for the establishment and operation of one or more transportation management associations within the county.

(b) $775,000 to the County of Santa Clara for a traffic idling reduction demonstration program.

(c) $200,000 to provide a grant to RIDES for Bay Area Commuters for the purchase and installation of a new computer system for rideshare matching service and rideshare management information.

(d) $650,000 to the City of San Jose for a traffic surveillance system for congestion reduction and energy savings.

(e) $200,000 to the City of San Buenaventura to demonstrate the energy savings associated with connecting 40 traffic signals to a central traffic signal surveillance system computer.

(f) $300,000 to the County of San Mateo to demonstrate energy savings and air quality improvement associated with the formation of one or more transportation systems management programs within the county.

(g) $620,000 to the County of San Mateo to demonstrate the energy savings and air quality improvement associated with the installation of a series of commercially available technologies associated with reducing traffic congestion, as follows:

(1) $250,000 on Highway 82 from the south city limits of Redwood City to the north city limits of Belmont.

(2) $250,000 on Woodside Road from El Camino Real to Alameda de Las Pulgas.

(3) $120,000 on Industrial Road (northbound) and Holly Street.

(h) $500,000 to the City of Oakland to demonstrate energy savings and air quality improvement which result from installing a commercially available system to enhance traffic flow.

(i) $1,450,000 to the Department of Transportation to demonstrate the energy conservation and air quality benefits associated with installing commercially available systems to enhance traffic flow, as follows:

(1) $300,000 for State Route 1 at the entrance to Cuesta College.

(2) $100,000 for State Route 1 at Ardath Drive in Cambria.

(3) $200,000 for State Route 101 at Teft Street, northbound and southbound freeway ramps.

(4) $100,000 for State Route 1 at the California Men's Colony.

(5) $750,000 for State Route 39 between State Route 405 and Lincoln Avenue.

(j) $750,000 to the County of Contra Costa for a demonstration project associated with the East Bay Commuter Rail Plan.

(k) $400,000 to the City of Anaheim to demonstrate the energy savings and air quality improvement associated with the installation

of a series of commercially available technologies including, but not limited to, a route message sign, closed circuit television cameras for traffic surveillance, and energy efficient pedestrian signals.

(*l*) $250,000 to the Cities of Downey and Cerritos for demonstrating energy savings by providing on-demand vanpools to seniors through its paratransit service.

(m) $300,000 to the City of El Monte to demonstrate an interjurisdictional traffic flow improvement program.

(n) $250,000 divided equally between the City of Modesto and the County of Stanislaus for conversion to traffic sensing/activated control systems.

(o) $250,000 to the City of Calexico to demonstrate the energy reduction effects of a demand-responsive vanpool program for seniors and handicapped.

(p) $300,000 to the County of Santa Clara for a trip reduction program serving commuters between San Jose and the Cities of Los Gatos, Saratoga, and Cupertino.

Transportation projects funded under this section shall comply with generally accepted engineering and public safety criteria applicable to the projects.

SEC. 2. Notwithstanding Sections 13340 and 16361 of the Government Code and to the extent permitted by federal law, the sum of six million eight hundred thirty-three thousand dollars ($6,833,000) of the money in the Federal Trust Fund, created by Section 16360 of the Government Code, received by the state from federal oil overcharge funds in the Petroleum Violation Escrow Account, as defined by Section 155 of the Further Continuing Appropriations Act of 1983 (P.L. 97-377) or other federal law, and received by the state from federal oil overcharge funds available pursuant to court judgments or federal agency orders, is hereby transferred to the Katz Schoolbus Fund and appropriated therefrom to the State Energy Resources Conservation and Development Commission for implementation of the Katz Safe Schoolbus Clean Fuel Efficiency Demonstration Program (Part 10.7 (commencing with Section 17910) of the Education Code).

SEC. 3. Funds appropriated by this act from the Petroleum Violation Escrow Account shall be disbursed by the Controller, subject to approval by the Director of Finance as to which court judgment or federal agency order is the proper source of those funds.

CHAPTER 958

An act relating to federal oil overcharge funds, and making an appropriation therefor.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. (a) Notwithstanding Sections 13340 and 16361 of the Government Code, and to the extent permitted by federal law, the sum of two million five hundred thousand dollars ($2,500,000) of the money in the Federal Trust Fund, created by Section 16360 of the Government Code, received by the state from federal oil overcharge funds in the Petroleum Violation Escrow Account, as defined by Section 155 of the Further Continuing Appropriations Act of 1983 (P.L. 97-377) or other federal law, and received by the state from federal oil overcharge funds available pursuant to court judgments or federal agency order, is hereby appropriated to the Department of Housing and Community Development for energy-related housing rehabilitation for lower and very low income households, as defined by Sections 50079.5 and 50105, respectively, of the Health and Safety Code, for allocation, following consultation and coordination with the Department of Economic Opportunity. Funds appropriated by this section shall be disbursed by the Controller, subject to approval by the Director of Finance as to which court judgment or federal agency order is the proper source of those funds. Funds may be used for the following activities:

(1) Related administrative expenses of the Department of Housing and Community Development. The department shall conform to federal limitations concerning the use of federal oil overcharge funds for administrative expenses.

(2) Energy-efficient rehabilitation of facilities used for emergency shelter for homeless individuals and families.

(3) Energy-efficient rehabilitation of farmworker housing.

(4) Energy-efficient rehabilitation of residential hotels and rental housing for the elderly and handicapped, as defined in Section 50067 of the Health and Safety Code.

(5) Energy-efficient rehabilitation of residential single-family, multifamily, and rental dwellings, including manufactured housing, housing cooperatives, and housing located on Indian reservations and rancherias.

(b) Under conditions as determined by the Department of Housing and Community Development, advances on contracted funds may be allowed after the execution of a contract or agreement.

CHAPTER 959

An act to amend Section 1011 of, and to add and repeal Section 1011.5 of, the Military and Veterans Code, relating to veterans, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 1011 of the Military and Veterans Code is amended to read:

1011. (a) There is in the department a Veterans' Home of California, Yountville, which is situated at Veterans' Home, Napa County.

(b) (1) The department may establish and construct a second home which shall be situated in the County of Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego, or Ventura. The home may be located on one or more sites. The department shall operate the second home concurrently with the first home.

(2) The department may complete any preapplication process necessary with the United States Veterans' Administration for construction of the second home.

SEC. 2. Section 1011.5 is added to the Military and Veterans Code, to read:

1011.5. (a) There is hereby created a Governor's Commission on a Southern California Veterans Home to advise the Governor and the Legislature on the establishment, pursuant to Section 1011, of a second veterans home in southern California.

(b) The commission shall consist of 12 members as follows:

(1) A member of the Veterans of Foreign Wars, appointed by the Governor from a list of three names submitted by the Commander of the Veterans of Foreign Wars to the Governor.

(2) A member of the American Legion, appointed by the Governor from a list of three names submitted by the Commander of the American Legion to the Governor.

(3) A member of the Disabled American Veterans, appointed by the Governor from a list of three names submitted by the Commander of the Disabled American Veterans to the Governor.

(4) A member of the AmVets, appointed by the Governor from a list of three names submitted by the Commander of the AmVets to the Governor.

(5) Three veterans, as defined by Section 980, appointed by the Governor.

(6) The Director of Veterans Affairs or his or her designee.

(7) A veteran, as defined by Section 980, appointed by the Speaker of the Assembly.

(8) A veteran, as defined by Section 980, appointed by the Senate

Rules Committee.

(9) The Chairperson of the Senate Committee on Veterans Affairs and the Chairperson of the Assembly Committee on Governmental Organization, who shall serve as ex officio, nonvoting members.

(c) (1) In making appointments pursuant to paragraphs (1) to (4), inclusive, of subdivision (b), the Governor shall consult with the leadership of the veterans' organizations specified in those paragraphs.

(2) Notwithstanding any other provision of law, gubernatorial appointments made pursuant to subdivision (b) shall not be subject to the approval of the Senate.

(d) The Governor shall appoint one of the members of the commission to serve as chairperson. The commission shall hold meetings at times and at places as it shall determine. Each member of the commission shall receive, for each day's attendance at each meeting of the commission, a per diem of fifty dollars ($50) and shall receive the same per diem for each day spent on official duties assigned by the commission. In addition, each member shall be reimbursed for his or her necessary traveling and other expenses incurred in the performance of his or her official duties. State agencies, including those identified in subdivision (f), may pay a portion of the commission's expenses.

(e) No later than July 1, 1992, the commission shall report to the Governor and Legislature its findings and recommendations on the establishment of a state veteran's home in southern California. The findings and recommendations may include, but need not be limited to, the following matters:

(1) Possible sites for a veterans home. This recommendation shall give consideration to the availability of federal surplus property and any property available for no cost, or at less than market value, from public or private sources, and to a competitive site-selection process which would compare the relative merits of all available sites.

(2) The scope and level of health care, residential care, and recreational facilities, and other services and amenities to be provided at the home.

(3) The number of sites to be established and the resident population to be served at each site, including a description of the type, size, and projected population of each of the residential components of the home, including, but not limited to, skilled nursing care beds, intermediate care beds, domiciliary care independent living facilities, and day-care facilities.

(4) Estimates of design and planning costs, land acquisition costs capital, construction costs, and annual operating costs of the home which would be associated with various modes of construction.

(5) Financing options for the construction of the home, including, but not limited to, revenue bond financing, lease/purchase financing, and financial assistance available through the federal Veterans Administration State Home Grants Program.

(6) The management of the home by state or private

administration.

(f) State agencies, including, but not limited to, the Governor's Office of Planning and Research, the Department of Veterans Affairs, the Office of State Treasurer, and the Office of Project Development and Management in the Department of General Services, may provide staff assistance to the commission upon its request.

(g) This section shall remain in effect only until July 1, 1993, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1993, deletes or extends that date.

(h) The commission may solicit and accept private donations, through the director, from any person, association, or entity interested in veterans' benefits.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to expedite the construction of a Veterans' Home of California in southern California to serve the state's burgeoning and aging veteran population as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 960

An act to add Article 4 (commencing with Section 130290) to Chapter 4 of Division 12 of the Public Utilities Code, relating to transportation, and making an appropriation therefor.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Article 4 (commencing with Section 130290) is added to Chapter 4 of Division 12 of the Public Utilities Code, to read:

Article 4. Smart Freeway Corridor Telecommunications Demonstration Projects

130290. As used in this article:

(a) "Smart freeway corridor" means a segment of a state highway route in an urban area selected for a smart freeway demonstration project.

(b) "Project" means a demonstration project which applies telecommunications and computer systems to reduce congestion and improve the flow of traffic.

130291. A smart freeway demonstration project shall be comprised of the following elements:

(a) A linked traffic monitoring network of traffic monitoring devices placed in freeway lanes, surface street travel lanes, turn lanes, and on ramps within the freeway corridor to continuously monitor traffic speeds and volumes to identify congestion and traffic incidents.

(b) An interactive signal control system to allow central control personnel or systems to override regular signal cycles in order to expedite traffic flow of congested freeways and surface street intersections and to facilitate the diversion of traffic around congested areas.

(c) A traffic information management system providing commuter access to current traffic information through telephones, radio and television, home computers, terminals in office buildings, in-vehicle motorist information systems, computer-activated changeable message signs placed on freeways, at on ramps, at parking garages, and on major arterials within the freeway corridor.

(d) An improved emergency response system to accelerate the dispatch of emergency vehicles, traffic control officers, and signal maintenance crews, thus reducing the time needed to clear an incident causing traffic congestion.

(e) Tow service to reduce traffic congestion caused by delays in removing stalled or damaged vehicles from the freeway in accordance with plans developed by the Department of the California Highway Patrol in consultation with the Department of Transportation.

(f) A joint-agency data base system to coordinate construction and maintenance which impact traffic flow in the freeway corridor.

130292. (a) The project shall be coordinated by the statutorily created county transportation commission in whose jurisdiction the project is located. The county transportation commission shall consult with local traffic and law enforcement agencies, the Department of Transportation, and the Department of the California Highway Patrol on all aspects of the project in order to provide necessary coordination of the project with existing plans and programs.

(b) The county transportation commission shall make preliminary and final results of the demonstration project available to state and local public agencies for possible application throughout the state.

(c) The county transportation commission shall prepare and transmit to the Legislature a report of its findings, conclusions, and recommendations.

(d) The Department of Transportation shall reimburse the county transportation commission, from funds appropriated for projects pursuant to this article, for the costs incurred by the commission under this article.

(e) No money from the General Fund shall be used for the operation of a smart freeway corridor telecommunications project established as a demonstration project pursuant to this article after

the demonstration project is completed.

SEC. 2. (a) Notwithstanding Sections 13340 and 16361 of the Government Code, and to the extent permitted by federal law, the sum of one million dollars ($1,000,000) of the money in the Federal Trust Fund, created by Section 16360 of the Government Code, received by the state from federal oil overcharge funds in the Petroleum Violation Escrow Account, as defined by Section 155 of the Further Continuing Appropriations Act of 1983 (P.L. 97-377) or other federal law, and received by the state from federal oil overcharge funds available pursuant to court judgments or federal agency orders, is hereby appropriated to the Department of Transportation for allocation for smart freeway corridor demonstration projects pursuant to Article 4 (commencing with Section 130290) of Chapter 4 of Division 12 of the Public Utilities Code.

(b) Funds appropriated by this act from the Petroleum Violation Escrow Account shall be disbursed by the Controller, subject to approval by the Director of Finance as to which court judgment or federal agency order is the proper source of those funds.

SEC. 3. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 961

An act to amend Sections 7548 and 7570 of the Business and Professions Code, and to amend Section 12028 of the Penal Code, relating to weapons.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 7548 of the Business and Professions Code is amended to read:

7548. The director may assess fines as enumerated in Article 6 (commencing with Section 7561). Assessment of administrative fines shall be independent of any other action by the bureau or any local, state, or federal governmental agency which may result from a

violation of this article. In addition to other prohibited acts under this chapter, no licensee, qualified manager, or registered security guard shall, during the course and scope of licensed activity, do any of the following:

(a) Carry any inoperable, replica, or other simulated firearm.

(b) Use a firearm in violation of the law, or in knowing violation of the standards for the carrying and usage of firearms as taught in the course of training in the carrying and use of firearms. Such unlawful or prohibited uses of firearms shall include, but not be limited to, the following:

(1) Illegally using, carrying, or possessing a dangerous weapon.

(2) Brandishing a weapon.

(3) Drawing a weapon without proper cause.

(4) Provoking a shooting incident without cause.

(5) Carrying or using a firearm while on duty while under the influence of alcohol or dangerous drugs.

(6) Carrying or using a firearm of a caliber for which a firearms permit has not been issued by the bureau.

(c) Carry or use a baton in the performance of his or her duties, unless he or she has in his or her possession a valid baton certificate issued pursuant to Section 7553.5.

(d) Carry or use tear gas or any other nonlethal chemical agent in the performance of his or her duties unless he or she has in his or her possession proof of completion of a course in the carrying and use of tear gas or any other nonlethal chemical agent.

(e) Carry a concealed weapon unless one of the following circumstances applies:

(1) The person has been issued a concealed weapons permit by a local law enforcement agency pursuant to Section 12050 of the Penal Code.

(2) The person is employed as a guard or messenger of a common carrier, bank, or other financial institution and he or she carries the weapon while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state, as specified in subdivision (e) of Section 12027 of the Penal Code.

SEC. 2. Section 7570 of the Business and Professions Code is amended to read:

7570. The fees prescribed by this chapter are as follows:

(a) The application and examination fee for an original license for a private patrol operator is one hundred dollars ($100) and for a private investigator and protection dog operator is twenty-five dollars ($25).

(b) The application fee for an original branch office certificate for a private investigator and protection dog operator is fifteen dollars ($15) and for a private patrol operator is fifty dollars ($50).

(c) The fee for an original license for a private investigator is one hundred dollars ($100), for protection dog operator is two hundred fifty dollars ($250), and for private patrol operator is three hundred

fifty dollars ($350).

(d) The renewal fee is as follows:

(1) For a license as a private investigator, one hundred dollars ($100).

(2) For a license as a private patrol operator, three hundred fifty dollars ($350).

(3) For a combination license as a private investigator and private patrol operator, four hundred dollars ($400).

(4) For a license as a protection dog operator, two hundred fifty dollars ($250).

(5) For a branch office certificate for a private investigator, protection dog operator, and a combination private investigator and private patrol operator, twenty dollars ($20) and for a private patrol operator, fifty dollars ($50).

(e) The delinquency fee is 50 percent of the renewal fee in effect on the date of expiration, but not more than twenty-five dollars ($25).

(f) A reinstatement fee is equal to the amount of the renewal fee plus the regular delinquency fee.

(g) The fee for reexamination of an applicant or his or her manager is ten dollars ($10).

(h) Registration fees pursuant to this chapter are as follows:

(1) A registration fee for a protection dog operator employee is twelve dollars ($12) and for a security guard is eighteen dollars ($18).

(2) A protection dog operator employee registration renewal fee of ten dollars ($10).

(3) A security guard registration renewal fee of eighteen dollars ($18).

(i) Fees to carry out other provisions of this chapter are as follows:

(1) A firearms qualification fee of thirty dollars ($30).

(2) A firearms requalification fee of twenty dollars ($20).

(3) An initial baton certification fee of twenty dollars ($20).

(4) An application fee and renewal fee for certification as a firearms training facility or a baton training facility of one hundred dollars ($100).

(5) An application fee and renewal fee for certification as a firearms training instructor or a baton training instructor of fifty dollars ($50).

SEC. 3. Section 12028 of the Penal Code is amended to read:

12028. (a) The unlawful concealed carrying upon the person or within the vehicle of the carrier of any explosive substance, other than fixed ammunition, dirk, or dagger, as provided in Section 12020, the unlawful concealed carrying upon the person or within the vehicle of the carrier of any weapons in violation of Section 12025, and the unlawful possession or carrying of any item in violation of Section 653k is a nuisance.

(b) A firearm of any nature owned or possessed in violation of Section 12021, 12021.1, or 12101 or used in the commission of any misdemeanor as provided in this code, any felony, or an attempt to

commit any misdemeanor as provided in this code or any felony, is, upon a conviction of the defendant or upon a juvenile court finding that an offense which would be a misdemeanor or felony if committed by an adult was committed or attempted by the juvenile with the use of a firearm, a nuisance. A finding that the defendant was guilty of the offense but was insane at the time the offense was committed is a conviction for the purposes of this section.

(c) Any weapon described in subdivision (a), or, upon conviction of the defendant or upon a juvenile court finding that an offense which would be a misdemeanor or felony if committed by an adult was committed or attempted by the juvenile with the use of a firearm, any weapon described in subdivision (b) shall be surrendered to the sheriff of a county or the chief of police or other head of a municipal police department of any city or city and county or the Commissioner of the California Highway Patrol. For purposes of this subdivision, the Commissioner of the California Highway Patrol shall receive only weapons that were confiscated by a member of the California Highway Patrol. The officers to whom the weapons are surrendered, except upon the certificate of a judge of a court of record, or of the district attorney of the county, that the retention thereof is necessary or proper to the ends of justice, may annually, between the 1st and 10th days of July, in each year, offer the weapons, which the officers in charge of them consider to have value with respect to sporting, recreational, or collection purposes, for sale at public auction to persons licensed pursuant to Section 12071 to engage in businesses involving any weapon purchased. If any weapon has been stolen and is thereafter recovered from the thief or his or her transferee, or is used in such a manner as to constitute a nuisance pursuant to subdivision (a) or (b) without the prior knowledge of its lawful owner that it would be so used, it shall not be so offered for sale but shall be restored to the lawful owner, as soon as its use as evidence has been served, upon his or her identification of the weapon and proof of ownership.

(d) If, under this section, a weapon is not of the type that can be sold to the public, generally, or is not sold pursuant to subdivision (c), the weapon, in the month of July, next succeeding, or sooner, if necessary to conserve local resources including space and utilization of personnel who maintain files and security of those weapons, shall be destroyed so that it can no longer be used as such a weapon except upon the certificate of a judge of a court of record, or of the district attorney of the county, that the retention of it is necessary or proper to the ends of justice.

(e) This section does not apply to any firearm in the possession of the Department of Fish and Game or which was used in the violation of any provision of the Fish and Game Code or any regulation adopted pursuant thereto, or which is forfeited pursuant to Section 5008.6 of the Public Resources Code.

(f) No stolen weapon shall be sold or destroyed pursuant to subdivision (c) or (d) unless reasonable notice is given to its lawful

owner, if his or her identity and address can be reasonably ascertained.

SEC. 4. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 962

An act to add Chapter 2.8 (commencing with Section 15814.30) to Part 10b of Division 3 of Title 2 of the Government Code, and to amend Section 25402.1 of the Public Resources Code, relating to state buildings, and making an appropriation therefor.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. The legislature finds and declares all of the following:

(a) State facilities are the largest energy users in the state, with two hundred sixty-five million dollars ($265,000,000) in utility costs in the 1989–90 calendar year.

(b) Significant opportunities exist to reduce energy consumption in state facilities by cost-effective measures, including adherence to building standards, more accurate measurement of energy consumption, and state purchase of commodities with lowest life cycle costs.

(c) It is in the interest of the people of the State of California to implement all cost-effective and feasible energy efficiency measures in state facilities, in order to reduce the cost to taxpayers of maintaining state operations, to reduce air pollution resulting from energy generation, and to promote market development of new energy efficiency technologies.

SEC. 2. Chapter 2.8 (commencing with Section 15814.30) is added to Part 10b of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 2.8. ENERGY EFFICIENCY IN PUBLIC BUILDINGS

15814.30. (a) All new public buildings for which construction begins after January 1, 1993, shall be models of energy efficiency and shall be designed, constructed, and equipped with all energy efficiency measures, materials, and devices that are feasible and cost-effective over the life of the building or the life of the energy efficiency measure, whichever is less.

(b) In determining which energy efficiency measures, materials, and devices are feasible and cost-effective over the life of the building, the State Architect and the Department of General Services shall consult with the State Energy Resources Conservation and Development Commission.

(c) For purposes of this section, "cost-effective" means that savings generated over the life of the building or the life of the energy efficiency measure, whichever is less, shall exceed the cost of purchasing and installing the energy efficiency measures, materials, or devices by not less than 10 percent.

15814.31. All existing public buildings, when renovated or remodeled, shall be retrofitted to meet the minimum standards, consistent with subdivision (d) of Section 2-5301 of Title 24 of the California Code of Regulations (California Building Code), established pursuant to Division 15 (commencing with Section 25000) of the Public Resources Code applicable to the building.

15814.32. (a) Any new public building for which construction begins after January 1, 1992, shall include meters or other technologies to measure the energy used at the building.

(b) The Department of General Services shall develop and submit to the Legislature on or before December 1, 1992, a plan under which energy use at existing individual public buildings can be identified accurately.

15814.33. On or before July 1, 1992, the Department of General Services, in conjunction with the State Energy Resources Conservation and Development Commission, shall do the following:

(a) Review the standard leases used by the state and shall adopt revisions to the standard leases which are designed to maximize energy savings in buildings leased by the state.

(b) Submit to the appropriate policy committees of the Legislature a report that identifies ways to improve energy efficiency in buildings leased by the state. The report shall assess the prevalence of revisions to state building leases during lease negotiations, which result in reduced energy savings or increased energy use and shall recommend ways to minimize these revisions.

15814.34. (a) The Legislature finds and declares all of the following:

(1) The state purchases a number of commodities, including, but not limited to, lighting fixtures, heating, ventilation and air-conditioning units, and copiers, that cumulatively account for a significant portion of the energy consumed by state operations.

(2) The state can realize significant energy savings and reduced energy costs by purchasing brands or models of commonly used commodities with low life cycle costs.

(3) Commodities necessary for state operations may be purchased directly by the state department or agency using the commodity, or may be purchased by the Department of General Services on behalf of other state departments or agencies.

(4) In order to increase energy efficiency and reduce costs to the taxpayers of the state, the state should make every reasonable effort to identify and purchase those commodities that have the lowest life cycle cost and meet the operational requirements of the state.

(b) The Department of General Services shall, on an ongoing basis, do all of the following:

(1) Identify commodities purchased by the department that, individually or on a statewide basis, consume a significant amount of energy.

(2) For each commodity identified pursuant to paragraph (1), determine the life cycle cost of the following:

(A) The brand or model of the commodity purchased by the department.

(B) The brand or model of the commodity that has the lowest life cycle cost, provided it is available for purchase by the state and meets all operational specifications of the state.

(3) Consult with the Energy Resources Conservation and Development Commission in the development and revision of one or more methods of determining the life cycle costs of commodities.

(c) In order to assist other agencies and departments in identifying commodities with the lowest life cycle costs, the Department of General Services shall distribute the following to all state agencies and departments:

(1) A list of those commodities with the lowest life cycle costs, as determined pursuant to paragraph (2) of subdivision (b).

(2) The method or methods used by the Department of General Services to determine the life cycle costs of commodities.

(d) The method or methods used by the Department of General Services to calculate the life cycle costs of commodities shall be designed to be easily understood and used by purchasing agents and other personnel in making purchasing decisions.

(e) Notwithstanding any other provision of law, all state agencies and departments shall purchase those commodities identified pursuant to subdivision (b) that have the lowest life cycle costs and that meet the applicable specifications, and shall make every reasonable effort to identify and purchase other commodities with the lowest life cycle costs.

(f) "Life cycle cost" for the purposes of this section, means the total cost of purchasing, installing, maintaining, and operating a device or system during its reasonably expected life. It includes, but is not necessarily limited to, capital costs, labor costs, energy costs, and operating and maintenance costs.

15814.35. The energy efficiency provisions of this chapter apply only to those public buildings in which energy costs exceed ten thousand dollars ($10,000) per year.

SEC. 3. Section 25402.1 of the Public Resources Code is amended to read:

25402.1. In order to implement the requirements of subdivisions (a) and (b) of Section 25402, the commission shall do all of the following:

(a) Develop a public domain computer program which will enable contractors, builders, architects, engineers, and government officials to estimate the energy consumed by residential and nonresidential buildings. The commission may charge a fee for the use of the program, which fee shall be based upon the actual cost of the program, including any computer costs.

(b) Establish a formal process for certification of compliance options for new products, materials, and calculation methods which provides for adequate technical and public review to ensure accurate, equitable, and timely evaluation of certification applications. Proponents filing applications for new products, materials, and calculation methods shall provide all information needed to evaluate the application that is required by the commission. The commission shall publish annually the results of its certification decisions and instructions to users and local building officials concerning requirements for showing compliance with the building standards for new products, materials, or calculation methods. The commission may charge and collect a reasonable fee from applicants to cover the costs under this subdivision. Any funds received by the commission for purposes of this subdivision shall be deposited in the Energy Resources Programs Account and, notwithstanding Section 13340 of the Government Code, are continuously appropriated to the commission for the purposes of this subdivision. Any unencumbered portion of funds collected as a fee for an application remaining in the Energy Resources Programs Account after completion of the certification process for that application shall be returned to the applicant within a reasonable period of time.

(c) Include a prescriptive method of complying with the standards, including design aids such as a manual, sample calculations, and model structural designs.

(d) Conduct a pilot project of field testing of actual residential buildings to calibrate and identify potential needed changes in the modeling assumptions to increase the accuracy of the public domain computer program specified in subdivision (a) and to evaluate the impacts of the standards, including, but not limited to, the energy savings, cost effectiveness, and the effects on indoor air quality. The pilot project shall be conducted pursuant to a contract entered into by the commission. The commission shall consult with the participants designated pursuant to Section 9202 of the Public Utilities Code to seek funding and support for field monitoring in

each public utility service territory, with the University of California to take advantage of its extensive building monitoring expertise, and with the California Building Industry Association to coordinate the involvement of builders and developers throughout the state. The pilot project shall include periodic public workshops to develop plans and review progress. The commission shall prepare and submit a report to the Legislature on progress and initial findings not later than December 31, 1988, and a final report on the results of the pilot project on residential buildings not later than June 30, 1990. The report shall include recommendations regarding the need and feasibility of conducting further monitoring of actual residential and nonresidential buildings. The report shall also identify any revisions to the public domain computer program and energy conservation standards if the pilot project determines that revisions are appropriate.

(e) Certify, not later than 180 days after approval of the standards by the State Building Standards Commission, an energy conservation manual for use by designers, builders, and contractors of residential and nonresidential buildings. The manual shall be furnished upon request at a price sufficient to cover the costs of production and shall be distributed at no cost to all affected local agencies. The manual shall contain, but not be limited to, the following:

(1) The standards for energy conservation established by the commission.

(2) Forms, charts, tables, and other data to assist designers and builders in meeting the standards.

(3) Design suggestions for meeting or exceeding the standards.

(4) Any other information which the commission finds will assist persons in conforming to the standards.

(5) Instructions for use of the computer program for calculating energy consumption in residential and nonresidential buildings.

(6) The prescriptive method for use as an alternative to the computer program.

(f) The commission shall establish a continuing program of technical assistance to local building departments in the enforcement of subdivisions (a) and (b) of Section 25402 and this section. The program shall include the training of local officials in building technology and enforcement procedures related to energy conservation, and the development of complementary training programs conducted by local governments, educational institutions, and other public or private entities. The technical assistance program shall include the preparation and publication of forms and procedures for local building departments in performing the review of building plans and specifications. The commission shall provide, on a contract basis, a review of building plans and specifications submitted by a local building department, and shall adopt a schedule of fees sufficient to repay the cost of those services.

(g) Subdivisions (a) and (b) of Section 25402 and this section, and the rules and regulations of the commission adopted pursuant

thereto, shall be enforced by the building department of every city, county, or city and county.

(1) No building permit for any residential or nonresidential building shall be issued by a local building department, unless a review by the building department of the plans for the proposed residential or nonresidential building contains detailed energy system specifications and confirms that the building satisfies the minimum standards established pursuant to subdivision (a) or (b) of Section 25402 and this section applicable to the building.

(2) Where there is no local building department, the commission shall enforce subdivisions (a) and (b) of Section 25402 and this section.

(3) If a local building department fails to enforce subdivisions (a) and (b) of Section 25402 and this section or any other provision of this chapter or standard adopted pursuant thereto, the commission may provide enforcement after furnishing 10 days' written notice to the local building department.

(4) A city, county, or city and county may, by ordinance or resolution, prescribe a schedule of fees sufficient to pay the costs incurred in the enforcement of subdivisions (a) and (b) of Section 25402 and this section. The commission may establish a schedule of fees sufficient to pay the costs incurred by that enforcement.

(5) No construction of any state building shall commence until the Department of General Services or the state agency that otherwise has jurisdiction over the property reviews the plans for the proposed building and certifies that the plans satisfy the minimum standards established pursuant to subdivision (a) or (b) of Chapter 2.8 (commencing with Section 15814.30) of Part 10b of Division 3 of Title 2 of the Government Code, Section 25402, and this section which are applicable to the building.

(h) Subdivisions (a) and (b) of Section 25402 and this section shall apply only to new residential and nonresidential buildings on which actual site preparation and construction have not commenced prior to the effective date of rules and regulations adopted pursuant to those sections that are applicable to those buildings. Nothing in those sections shall prohibit either of the following:

(1) The enforcement of state or local energy conservation or energy insulation standards, adopted prior to the effective date of rules and regulations adopted pursuant to subdivisions (a) and (b) of Section 25402 and this section with regard to residential and nonresidential buildings on which actual site preparation and construction have commenced prior to that date.

(2) The enforcement of city or county energy conservation or energy insulation standards, whenever adopted, with regard to residential and nonresidential buildings on which actual site preparation and construction have not commenced prior to the effective date of rules and regulations adopted pursuant to subdivisions (a) and (b) of Section 25402 and this section, if the city or county files the basis of its determination that the standards are

cost effective with the commission and the commission finds that the standards will require the diminution of energy consumption levels permitted by the rules and regulations adopted pursuant to those sections. If, after two or more years after the filing with the commission of the determination that those standards are cost effective, there has been a substantial change in the factual circumstances affecting the determination, upon application by any interested party, the city or county shall update and file a new basis of its determination that the standards are cost effective. The determination that the standards are cost effective shall be adopted by the governing body of the city or county at a public meeting. If, at the meeting on the matter, the governing body determines that the standards are no longer cost effective, the standards shall, as of that date, be unenforceable and no building permit or other entitlement shall be denied based on the noncompliance with the standards.

(i) The commission may exempt from the requirements of this section and of any regulations adopted pursuant thereto any proposed building for which compliance would be impossible without substantial delays and increases in cost of construction, if the commission finds that substantial funds have been expended in good faith on planning, designing, architecture or engineering prior to the date of adoption of the regulations.

(j) If a dispute arises between an applicant for a building permit, or the state pursuant to paragraph (5) of subdivision (g), and the building department regarding interpretation of Section 25402 or the regulations adopted pursuant thereto, either party may submit the dispute to the commission for resolution. The commission's determination of the matter shall be binding on the parties.

(k) Nothing in Section 25130, 25131, or 25402, or in this section prevents enforcement of any regulation adopted pursuant to this chapter, or Chapter 11.5 (commencing with Section 19878) of Part 3 of Division 13 of the Health and Safety Code as they existed prior to September 16, 1977.

SEC. 4. Notwithstanding Sections 13340 and 16361 of the Government Code, and to the extent permitted by federal law, the sum of forty thousand dollars ($40,000) of the money in the Federal Trust Fund, which is created by Section 16360 of the Government Code, received by the state from federal oil overcharge funds in the Petroleum Violation Escrow Account, as defined by Section 155 of the Further Continuing Appropriations Act of 1983 (P.L. 97-377) or other federal law, and from federal oil overcharge funds available pursuant to court judgments or federal agency orders, is hereby appropriated to the Department of General Services for review and revision of standard leases used by the state to maximize energy savings in state leased buildings and for a report to the Legislature identifying ways to improve energy efficiency in these buildings pursuant to Section 15814.33 of the Government Code.

SEC. 5. Funds appropriated for purposes of this act shall be

disbursed by the Controller, subject to approval by the Director of Finance as to which court judgment or federal agency order is the proper source of those funds.

CHAPTER 963

An act to amend Sections 26 and 199.21 of the Health and Safety Code, relating to AIDS.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 26 of the Health and Safety Code is amended to read:

26. As used in this code:

(a) "AIDS" means acquired immune deficiency syndrome.

(b) "Human immunodeficiency virus" or "HIV" means the etiologic virus of AIDS.

(c) "HIV test" means any clinical test, laboratory or otherwise, used to identify HIV, a component of HIV, or antibodies or antigens to HIV.

SEC. 2. Section 199.21 of the Health and Safety Code is amended to read:

199.21. (a) Any person who negligently discloses results of an HIV test, as defined in Section 26, to any third party, in a manner which identifies or provides identifying characteristics of the person to whom the test results apply, except pursuant to a written authorization, as described in subdivision (g), or except as provided in Section 1603.1 or 1603.3 or any other statute that expressly provides an exemption to this section, shall be assessed a civil penalty in an amount not to exceed one thousand dollars ($1,000) plus court costs, as determined by the court, which penalty and costs shall be paid to the subject of the test.

(b) Any person who willfully discloses the results of an HIV test, as defined in Section 26, to any third party, in a manner which identifies or provides identifying characteristics of the person to whom the test results apply, except pursuant to a written authorization, as described in subdivision (g), or except as provided in Section 1603.1 or 1603.3 or any other statute that expressly provides an exemption to this section, shall be assessed a civil penalty in an amount not less than one thousand dollars ($1,000) and not more than five thousand dollars ($5,000) plus court costs, as determined by the court, which penalty and costs shall be paid to the subject of the test.

(c) Any person who willfully or negligently discloses the results of an HIV test, as defined in Section 26, to a third party, in a manner

which identifies or provides identifying characteristics of the person to whom the test results apply, except pursuant to a written authorization, as described in subdivision (g), or except as provided in Section 1603.1 or 1603.3 or any other statute that expressly provides an exemption to this section, which results in economic, bodily, or psychological harm to the subject of the test, is guilty of a misdemeanor, punishable by imprisonment in the county jail for a period not to exceed one year or a fine of not to exceed ten thousand dollars ($10,000) or both.

(d) Any person who commits any act described in subdivision (a) or (b) shall be liable to the subject for all actual damages, including damages for economic, bodily, or psychological harm which is a proximate result of the act.

(e) Each disclosure made in violation of this chapter is a separate and actionable offense.

(f) Except as provided in Article 6.9 (commencing with Section 799) of Chapter 1 of Part 2 of the Insurance Code, the results of an HIV test, as defined in Section 26, which identifies or provides identifying characteristics of the person to whom the test results apply, shall not be used in any instance for the determination of insurability or suitability for employment.

(g) "Written authorization," as used in this section, applies only to the disclosure of test results by a person responsible for the care and treatment of the person subject to the test. Written authorization is required for each separate disclosure of the test results, and shall include to whom the disclosure would be made.

(h) Nothing in this section limits or expands the right of an injured subject to recover damages under any other applicable law. Nothing in this section shall impose civil liability or criminal sanction for disclosure of the results of tests performed on cadavers to public health authorities or tissue banks.

(i) Nothing in this section imposes liability or criminal sanction for disclosure of an HIV test, as defined in Section 26, in accordance with any reporting requirement for a diagnosed case of AIDS by the state department or the Centers for Disease Control under the United States Public Health Service.

(j) The state department may require blood banks and plasma centers to submit monthly reports summarizing statistical data concerning the results of tests to detect the presence of viral hepatitis and HIV. This statistical summary shall not include the identity of individual donors or identifying characteristics which would identify individual donors.

(k) "Disclosed," as used in this section, means to disclose, release, transfer, disseminate, or otherwise communicate all or any part of any record orally, in writing, or by electronic means to any person or entity.

(*l*) When the results of an HIV test, as defined in Section 26, are included in the medical record of the patient who is the subject of the test, the inclusion is not a disclosure for purposes of this section.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 964

An act to amend Section 6401.7 of the Labor Code, relating to worker safety.

[Approved by Governor October 13, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 6401.7 of the Labor Code is amended to read:

6401.7. (a) Every employer shall establish, implement, and maintain an effective injury prevention program. The program shall be written and shall include, but not be limited to, the following elements:

(1) Identification of the person or persons responsible for implementing the program.

(2) The employer's system for identifying and evaluating workplace hazards, including scheduled periodic inspections to identify unsafe conditions and work practices.

(3) The employer's methods and procedures for correcting unsafe or unhealthy conditions and work practices in a timely manner.

(4) An occupational health and safety training program designed to instruct employees in general safe and healthy work practices and to provide specific instruction with respect to hazards specific to each employee's job assignment.

(5) The employer's system for communicating with employees on occupational health and safety matters, including provisions designed to encourage employees to inform the employer of hazards at the worksite without fear of reprisal.

(6) The employer's system for ensuring that employees comply with safe and healthy work practices, which may include disciplinary action.

(b) The employer shall correct unsafe and unhealthy conditions and work practices in a timely manner based on the severity of the hazard.

(c) The employer shall train all employees when the training program is first established, all new employees, and all employees given a new job assignment, and shall train employees whenever new substances, processes, procedures, or equipment are introduced to the workplace and represent a new hazard, and whenever the employer receives notification of a new or previously unrecognized hazard.

(d) The employer shall keep appropriate records of steps taken to implement and maintain the program.

(e) The standards board shall adopt a standard setting forth the employer's duties under this section, on or before January 1, 1991, consistent with the requirements specified in subdivisions (a), (b), (c), and (d). The standards board, in adopting the standard, shall include substantial compliance criteria for use in evaluating an employer's injury prevention program. The board may adopt less stringent criteria for employers with few employees and for employers in industries with insignificant occupational safety or health hazards.

(f) The standard adopted pursuant to subdivision (e) shall specifically permit employer and employee occupational safety and health committees to be included in the employer's injury prevention program. The board shall establish criteria for use in evaluating employer and employee occupational safety and health committees. The criteria shall include minimum duties, including the following:

(1) Review of the employer's (A) periodic, scheduled worksite inspections, (B) investigation of causes of incidents resulting in injury, illness, or exposure to hazardous substances, and (C) investigation of any alleged hazardous condition brought to the attention of any committee member. When determined necessary by the committee, the committee may conduct its own inspections and investigations.

(2) Upon request from the division, verification of abatement action taken by the employer as specified in division citations.

If an employer's occupational safety and health committee meets the criteria established by the board, it shall be presumed to be in substantial compliance with paragraph (5) of subdivision (a).

(g) The division shall adopt regulations specifying the procedures for selecting employee representatives for employer-employee occupational health and safety committees when these procedures are not specified in an applicable collective bargaining agreement. No employee or employee organization shall be held liable for any act or omission in connection with a health and safety committee.

(h) The employer's injury prevention program, as required by this section, shall cover all of the employer's employees and all other workers who the employer controls or directs and directly supervises on the job to the extent these workers are exposed to worksite and job assignment specific hazards. Nothing in this subdivision shall affect the obligations of a contractor or other employer which

controls or directs and directly supervises its own employees on the job.

(i) Where a contractor supplies its employee to a state agency employer on a temporary basis, the state agency employer may assess a fee upon the contractor to reimburse the state agency for the additional costs, if any, of including the contract employee within the state agency's injury prevention program.

CHAPTER 965

An act to amend Sections 1785.13 and 1786.18 of the Civil Code, relating to credit reporting.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 1785.13 of the Civil Code is amended to read:

1785.13. (a) Except as authorized under subdivision (b) no consumer credit reporting agency shall make any consumer credit report containing any of the following items of information:

(1) Bankruptcies which, from the date of adjudication, antedate the report by more than 14 years.

(2) Suits and judgments which, from the date of entry, antedate the report by more than seven years or until the governing statute of limitations has expired, whichever is the longer period.

(3) Unlawful detainer actions, unless the lessor was the prevailing party. For purposes of this paragraph, the lessor shall be deemed to be the prevailing party only if (A) final judgment was awarded to the lessor (i) upon entry of the tenant's default, (ii) upon the granting of the lessor's motion for summary judgment, or (iii) following trial, or (B) the action was resolved by a written settlement agreement between the parties which states that the unlawful detainer action may be reported. In any other instance in which the action is resolved by settlement agreement, the lessor shall not be deemed to be the prevailing party for purposes of this paragraph.

(4) Paid tax liens which, from the date of payment, antedate the report by more than seven years.

(5) Accounts placed for collection or charged to profit and loss which antedate the report by more than seven years.

(6) Records of arrest, indictment, information, misdemeanor complaint, or conviction of a crime which, from the date of disposition, release, or parole, antedate the report by more than seven years. Such items of information shall no longer be reported if at any time it is learned that in the case of a conviction a full pardon has been granted, or in the case of an arrest, indictment, information,

or misdemeanor complaint a conviction did not result.

(7) Any other adverse information which antedates the report by more than seven years.

(b) The provisions of subdivision (a) are not applicable in the case of any consumer credit report to be used in the following transactions:

(1) A credit transaction involving, or which may reasonably be expected to involve, a principal amount of fifty thousand dollars ($50,000) or more.

(2) The underwriting of life insurance, involving or which may reasonably be expected to involve, an amount of one hundred thousand dollars ($100,000) or more.

(3) The employment of any individual at an annual salary which equals, or may reasonably be expected to equal, thirty thousand dollars ($30,000) or more.

(4) The rental of a dwelling unit which exceeds one thousand dollars ($1,000) per month.

SEC. 1.1. Section 1785.13 of the Civil Code is amended to read:

1785.13. (a) Except as authorized under subdivision (b) no consumer credit reporting agency shall make any consumer credit report containing any of the following items of information:

(1) Bankruptcies which, from the date of adjudication, antedate the report by more than 10 years. Any information in a consumer credit report regarding a bankruptcy shall designate the chapter of the federal bankruptcy law (Title 11, U.S.C.) pursuant to which the bankruptcy proceeding was filed.

(2) Suits and judgments which, from the date of entry, antedate the report by more than seven years or until the governing statute of limitations has expired, whichever is the longer period.

(3) Unlawful detainer actions, unless the lessor was the prevailing party. For purposes of this paragraph, the lessor shall be deemed to be the prevailing party only if (A) final judgment was awarded to the lessor (i) upon entry of the tenant's default, (ii) upon the granting of the lessor's motion for summary judgment, or (iii) following trial, or (B) the action was resolved by a written settlement agreement between the parties which states that the unlawful detainer action may be reported. In any other instance in which the action is resolved by settlement agreement, the lessor shall not be deemed to be the prevailing party for purposes of this paragraph.

(4) Paid tax liens which, from the date of payment, antedate the report by more than seven years.

(5) Accounts placed for collection or charged to profit and loss which antedate the report by more than seven years.

(6) Records of arrest, indictment, information, misdemeanor complaint, or conviction of a crime which, from the date of disposition, release, or parole, antedate the report by more than seven years. These items of information shall no longer be reported if at any time it is learned that in the case of a conviction a full pardon has been granted, or in the case of an arrest, indictment, information,

or misdemeanor complaint a conviction did not result.

(7) Any other adverse information which antedates the report by more than seven years.

(b) Subdivision (a) is not applicable in the case of any consumer credit report to be used in the following transactions:

(1) A credit transaction involving, or which may reasonably be expected to involve, a principal amount of fifty thousand dollars ($50,000) or more.

(2) The underwriting of life insurance, involving or which may reasonably be expected to involve, an amount of one hundred thousand dollars ($100,000) or more.

(3) The employment of any individual at an annual salary which equals, or may reasonably be expected to equal, thirty thousand dollars ($30,000) or more.

(4) The rental of a dwelling unit which exceeds one thousand dollars ($1,000) per month.

SEC. 1.2. Section 1785.13 of the Civil Code is amended to read:

1785.13. (a) Except as authorized under subdivision (b) no consumer credit reporting agency shall make any consumer credit report containing any of the following items of information:

(1) Bankruptcies which, from the date of adjudication, antedate the report by more than 14 years.

(2) Suits and judgments which, from the date of entry, antedate the report by more than seven years or until the governing statute of limitations has expired, whichever is the longer period.

(3) Unlawful detainer actions, unless the lessor was the prevailing party. For purposes of this paragraph, the lessor shall be deemed to be the prevailing party only if (A) final judgment was awarded to the lessor (i) upon entry of the tenant's default, (ii) upon the granting of the lessor's motion for summary judgment, or (iii) following trial, or (B) the action was resolved by a written settlement agreement between the parties which states that the unlawful detainer action may be reported. In any other instance in which the action is resolved by settlement agreement, the lessor shall not be deemed to be the prevailing party for purposes of this paragraph.

(4) Paid tax liens which, from the date of payment, antedate the report by more than seven years.

(5) Accounts placed for collection or charged to profit and loss which antedate the report by more than seven years.

(6) Records of arrest, indictment, information, misdemeanor complaint, or conviction of a crime which, from the date of disposition, release, or parole, antedate the report by more than seven years. These items of information shall no longer be reported if at any time it is learned that in the case of a conviction a full pardon has been granted, or in the case of an arrest, indictment, information, or misdemeanor complaint a conviction did not result.

(7) Any other adverse information which antedates the report by more than seven years.

(b) The provisions of subdivision (a) are not applicable in the case

of any consumer credit report to be used in the following transactions:

(1) A credit transaction involving, or which may reasonably be expected to involve, a principal amount of fifty thousand dollars ($50,000) or more.

(2) The underwriting of life insurance, involving or which may reasonably be expected to involve, an amount of one hundred thousand dollars ($100,000) or more.

(3) The rental of a dwelling unit which exceeds one thousand dollars ($1,000) per month.

(c) No consumer credit reporting agency shall make any consumer credit report to be used for employment purposes except as specified in Section 1785.11.

(d) This section shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1994, deletes or extends that date.

SEC. 1.3. Section 1785.13 is added to the Civil Code, to read:

1785.13. (a) Except as authorized under subdivision (b) no consumer credit reporting agency shall make any consumer credit report containing any of the following items of information:

(1) Bankruptcies which, from the date of adjudication, antedate the report by more than 14 years.

(2) Suits and judgments which, from the date of entry, antedate the report by more than seven years or until the governing statute of limitations has expired, whichever is the longer period.

(3) Unlawful detainer actions, unless the lessor was the prevailing party. For purposes of this paragraph, the lessor shall be deemed to be the prevailing party only if (A) final judgment was awarded to the lessor (i) upon entry of the tenant's default, (ii) upon the granting of the lessor's motion for summary judgment, or (iii) following trial, or (B) the action was resolved by a written settlement agreement between the parties which states that the unlawful detainer action may be reported. In any other instance in which the action is resolved by settlement agreement, the lessor shall not be deemed to be the prevailing party for purposes of this paragraph.

(4) Paid tax liens which, from the date of payment, antedate the report by more than seven years.

(5) Accounts placed for collection or charged to profit and loss which antedate the report by more than seven years.

(6) Records of arrest, indictment, information, misdemeanor complaint, or conviction of a crime which, from the date of disposition, release, or parole, antedate the report by more than seven years. These items of information shall no longer be reported if at any time it is learned that in the case of a conviction a full pardon has been granted, or in the case of an arrest, indictment, information, or misdemeanor complaint a conviction did not result.

(7) Any other adverse information which antedates the report by more than seven years.

(b) The provisions of subdivision (a) are not applicable in the case

of any consumer credit report to be used in the following transactions:

(1) A credit transaction involving, or which may reasonably be expected to involve, a principal amount of fifty thousand dollars ($50,000) or more.

(2) The underwriting of life insurance, involving or which may reasonably be expected to involve, an amount of one hundred thousand dollars ($100,000) or more.

(3) The employment of any individual at an annual salary which equals, or may reasonably be expected to equal, thirty thousand dollars ($30,000) or more.

(4) The rental of a dwelling unit which exceeds one thousand dollars ($1,000) per month.

(c) This section shall become operative on January 1, 1994.

SEC. 1.4. Section 1785.13 of the Civil Code is amended to read:

1785.13. (a) Except as authorized under subdivision (b) no consumer credit reporting agency shall make any consumer credit report containing any of the following items of information:

(1) Bankruptcies which, from the date of adjudication, antedate the report by more than 10 years. Any information in a consumer credit report regarding a bankruptcy shall designate the chapter of the federal bankruptcy law (Title 11, U.S.C.) pursuant to which the bankruptcy proceeding was filed.

(2) Suits and judgments which, from the date of entry, antedate the report by more than seven years or until the governing statute of limitations has expired, whichever is the longer period.

(3) Unlawful detainer actions, unless the lessor was the prevailing party. For purposes of this paragraph, the lessor shall be deemed to be the prevailing party only if (A) final judgment was awarded to the lessor (i) upon entry of the tenant's default, (ii) upon the granting of the lessor's motion for summary judgment, or (iii) following trial, or (B) the action was resolved by a written settlement agreement between the parties which states that the unlawful detainer action may be reported. In any other instance in which the action is resolved by settlement agreement, the lessor shall not be deemed to be the prevailing party for purposes of this paragraph.

(4) Paid tax liens which, from the date of payment, antedate the report by more than seven years.

(5) Accounts placed for collection or charged to profit and loss which antedate the report by more than seven years.

(6) Records of arrest, indictment, information, misdemeanor complaint, or conviction of a crime which, from the date of disposition, release, or parole, antedate the report by more than seven years. These items of information shall no longer be reported if at any time it is learned that in the case of a conviction a full pardon has been granted, or in the case of an arrest, indictment, information, or misdemeanor complaint a conviction did not result.

(7) Any other adverse information which antedates the report by more than seven years.

(b) Subdivision (a) is not applicable in the case of any consumer credit report to be used in the following transactions:

(1) A credit transaction involving, or which may reasonably be expected to involve, a principal amount of fifty thousand dollars ($50,000) or more.

(2) The underwriting of life insurance, involving or which may reasonably be expected to involve, an amount of one hundred thousand dollars ($100,000) or more.

(3) The rental of a dwelling unit which exceeds one thousand dollars ($1,000) per month.

(c) No consumer credit reporting agency shall make any consumer credit report to be used for employment purposes except as specified in Section 1785.11.

(d) This section shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1994, deletes or extends that date.

SEC. 1.5. Section 1785.13 is added to the Civil Code, to read:

1785.13. (a) Except as authorized under subdivision (b) no consumer credit reporting agency shall make any consumer credit report containing any of the following items of information:

(1) Bankruptcies which, from the date of adjudication, antedate the report by more than 10 years. Any information in a consumer credit report regarding a bankruptcy shall designate the chapter of the federal bankruptcy law (Title 11, U.S.C.) pursuant to which the bankruptcy proceeding was filed.

(2) Suits and judgments which, from the date of entry, antedate the report by more than seven years or until the governing statute of limitations has expired, whichever is the longer period.

(3) Unlawful detainer actions, unless the lessor was the prevailing party. For purposes of this paragraph, the lessor shall be deemed to be the prevailing party only if (A) final judgment was awarded to the lessor (i) upon entry of the tenant's default, (ii) upon the granting of the lessor's motion for summary judgment, or (iii) following trial, or (B) the action was resolved by a written settlement agreement between the parties which states that the unlawful detainer action may be reported. In any other instance in which the action is resolved by settlement agreement, the lessor shall not be deemed to be the prevailing party for purposes of this paragraph.

(4) Paid tax liens which, from the date of payment, antedate the report by more than seven years.

(5) Accounts placed for collection or charged to profit and loss which antedate the report by more than seven years.

(6) Records of arrest, indictment, information, misdemeanor complaint, or conviction of a crime which, from the date of disposition, release, or parole, antedate the report by more than seven years. These items of information shall no longer be reported if at any time it is learned that in the case of a conviction a full pardon has been granted, or in the case of an arrest, indictment, information, or misdemeanor complaint a conviction did not result.

(7) Any other adverse information which antedates the report by more than seven years.

(b) Subdivision (a) is not applicable in the case of any consumer credit report to be used in the following transactions:

(1) A credit transaction involving, or which may reasonably be expected to involve, a principal amount of fifty thousand dollars ($50,000) or more.

(2) The underwriting of life insurance, involving or which may reasonably be expected to involve, an amount of one hundred thousand dollars ($100,000) or more.

(3) The employment of any individual at an annual salary which equals, or may reasonably be expected to equal, thirty thousand dollars ($30,000) or more.

(4) The rental of a dwelling unit which exceeds one thousand dollars ($1,000) per month.

(c) This section shall become operative on January 1, 1994.

SEC. 2. Section 1786.18 of the Civil Code is amended to read:

1786.18. (a) Except as authorized under subdivision (b) no investigative consumer reporting agency shall make any investigative consumer report containing any of the following items of information:

(1) Bankruptcies which, from the date of adjudication, antedate the report by more than 14 years.

(2) Suits from the date of filing and satisfied judgments which from the date of entry antedate the report by more than seven years.

(3) Unsatisfied judgments which, from the date of entry, antedate the report by more than 10 years.

(4) Unlawful detainer actions, unless the lessor was the prevailing party. For purposes of this paragraph, the lessor shall be deemed to be the prevailing party only if (A) final judgment was awarded to the lessor (i) upon entry of the tenant's default, (ii) upon the granting of the lessor's motion for summary judgment, or (iii) following trial, or (B) the action was resolved by a written settlement agreement between the parties which states that the unlawful detainer action may be reported. In any other instance in which the action is resolved by settlement agreement, the lessor shall not be deemed to be the prevailing party for purposes of this paragraph.

(5) Paid tax liens which, from the date of payment, antedate the report by more than seven years.

(6) Accounts placed for collection or charged to profit and loss which antedate the report by more than seven years.

(7) Records of arrest, indictment, information, misdemeanor complaint, or conviction of a crime which, from the date of disposition, release, or parole, antedate the report by more than seven years. Such items of information shall no longer be reported if at any time it is learned that in the case of a conviction a full pardon has been granted, or in the case of an arrest, indictment, information, or misdemeanor complaint a conviction did not result, except that records of arrest, indictment, and information misdemeanor

complaints may be reported pending pronouncement of judgment on the particular subject matter of such records.

(8) Any other adverse information which antedates the report by more than seven years.

(b) The provisions of subdivision (a) are not applicable in the case of any consumer report to be used in the following transactions:

(1) The underwriting of life insurance, involving or which may reasonably be expected to involve, an amount of one hundred thousand dollars ($100,000) or more.

(2) The employment of any individual at an annual salary which equals, or may reasonably be expected to equal, thirty thousand dollars ($30,000) or more.

(3) The rental of a dwelling unit which exceeds one thousand dollars ($1,000) per month.

SEC. 3. (a) Section 1.1 of this bill incorporates amendments to Section 1785.13 of the Civil Code proposed by both this bill and AB 2032. It shall only become operative if (1) both bills are enacted and become effective January 1, 1992, (2) each bill amends Section 1785.13 of the Civil Code, (3) SB 473 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2032, in which case Sections 1 and 1.2 to 1.5, inclusive, of this bill shall not become operative.

(b) Sections 1.2 and 1.3 of this bill incorporate amendments to Section 1785.13 of the Civil Code proposed by both this bill and SB 473. They shall only become operative if (1) both bills are enacted and become effective January 1, 1992, (2) each bill amends Section 1785.13 of the Civil Code, (3) AB 2032 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 473, in which case Sections 1, 1.1, 1.4, and 1.5 of this bill shall not become operative.

(c) Sections 1.4 and 1.5 of this bill incorporate amendments to Section 1785.13 of the Civil Code proposed by this bill, AB 2032, and SB 473. They shall only become operative if (1) all three bills are enacted and become effective January 1, 1992, (2) each bill amends Section 1785.13 of the Civil Code, and (3) this bill is enacted after AB 2032 and SB 473, in which case Sections 1 to 1.3, inclusive, of this bill shall not become operative.

CHAPTER 966

An act to amend Sections 54711, 54716, and 54718 of, and to add Section 54719 to, the Government Code, and to amend Sections 3114.3, 6616, 8671, 8831, 10102, 10110.1, 10427, 22501, 22525, 22530, 22569, and 22608 of, and to repeal Section 22608.1 of, the Streets and Highways Code, relating to assessments.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 54711 of the Government Code is amended to read:

54711. (a) No benefit assessment shall be levied pursuant to this chapter unless it meets all of the following requirements:

(1) The amount of the assessment imposed on any parcel of property shall be related to the benefit to the parcel which will be derived from the provision of the service. Except as provided in subdivision (d) or (e) of Section 54715, in the case of a benefit assessment for flood control services, the benefit may be determined on the basis of the proportionate storm water runoff from each parcel. In the case of an assessment for the maintenance of streets, roads, or highways, the benefit may be in proportion to the estimated traffic volume to be generated by each parcel assessed, or any other reasonable basis as determined by the legislative body. In the case of an assessment to cure bond fund deficiencies pursuant to Section 54710.3, all parcels subject to the assessment may be assumed to benefit equally from the jurisdiction's improved ability to finance special benefit projects through assessments at lower cost, due to the added security provided by the assessment levied pursuant to this chapter.

(2) The annual aggregate amount of the assessment shall not exceed the estimated annual cost of providing the service, except that the legislative body may, by resolution, determine that the estimated cost of work authorized pursuant to subdivision (b) of Section 54710 is greater than can be conveniently raised from a single annual assessment and order that the estimated cost shall be raised by an assessment levied and collected in installments over a period not to exceed five fiscal years.

(3) The revenue derived from the assessment shall not be used to pay the cost of any service other than the service for which the assessment was levied.

(b) This section does not limit or prohibit the levy or collection of any other fee, charge, or tax for the provision of services, except that a maintenance district formed pursuant to Chapter 7 (commencing with Section 1550) of Division 2 of the Streets and Highways Code may impose an assessment pursuant to this chapter only as an

alternative to imposing a property tax for the provision of street lighting services.

SEC. 2. Section 54716 of the Government Code is amended to read:

54716. (a) For the first fiscal year in which a benefit assessment is proposed to be imposed pursuant to this chapter, the legislative body shall cause a written report to be prepared and filed with the clerk of the local agency which shall contain all of the following information:

(1) A description of the service proposed to be financed through the revenue derived from the assessment.

(2) A description of each lot or parcel of property proposed to be subject to the benefit assessment. The assessor's parcel number shall be a sufficient description of the parcel. The area proposed to be subject to the benefit assessment may be less than the entire area of the local agency.

(3) The amount of the proposed assessment for each parcel. In the case of an assessment to be collected in installments pursuant to paragraph (2) of subdivision (a) of Section 54711, the report shall set forth the number of annual installments and the fiscal years during which they are to be collected, and fix the maximum amount of each annual installment.

(4) The basis and schedule of the assessment.

(5) In the case of an assessment levied pursuant to Section 54710.3, an identification of the assessment districts for which the local agency has assumed responsibility for redemption fund deficiencies and for which it proposes to rely on assessments levied pursuant to this chapter, and a statement of the conditions under which the assessment will actually be levied and collected in any year.

(b) The clerk shall cause notice of the filing of the report and of a time, date, and place of hearing thereon to be published pursuant to Section 6066 and posted in at least three public places within the jurisdiction of the local agency.

(c) With respect to any assessment proposed to be levied pursuant to subdivision (b) of Section 54710 or Section 54710.3, at least 20 days before the date set for hearing of protests, the clerk shall mail, postage prepaid, copies of a notice of the proposed assessment and the time, date, and place of the hearing thereon, to all persons whose names and addresses appear on the last equalized assessment roll for the area proposed to be subject to the benefit assessment or who are known to the clerk if an election held pursuant to Section 54717 would be by the landowners of the area, or to the registered voters residing within the area if an election held pursuant to Section 54717 would be by the registered voters of the area. The failure of the clerk to mail the notice to any property owner or the failure of any property owner to receive the notice shall not affect the validity of any proceedings taken under this chapter. If property assessed by the state under Section 19 of Article XIII of the California Constitution is proposed to be assessed, any notice required by this section shall

be mailed to every owner of the property to be assessed at the address thereof shown on the last State Board of Equalization roll transmitted to the county auditor.

(d) At the hearing, the legislative body shall hear and consider all protests. At the conclusion of the hearing, the legislative body may adopt, revise, change, reduce, or modify the proposed assessment. The legislative body shall make a determination upon the assessment as described in the report or as determined at the hearing, and shall, by ordinance or resolution, determine the proposed assessment.

SEC. 3. Section 54718 of the Government Code is amended to read:

54718. (a) The legislative body may provide for the collection of the assessment or any installment of an assessment, in the same manner, and subject to the same penalties and priority of lien as, other charges and taxes fixed and collected by, or on behalf of the local agency, except that if, for the first year the assessment is levied the real property on which the assessment is levied has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of county taxes would become delinquent, the confirmed assessment shall not result in a lien against the real property but shall be transferred to the unsecured roll.

(b) If the assessments are collected by the county, the county may deduct its reasonable costs incurred for the service before remittal of the balance to the local agency's treasury.

(c) In the case of an assessment levied pursuant to Section 54710.3, the legislative body shall provide for the collection of the assessment in any year only if the legislative body determines that the levy is necessary because of a redemption fund deficiency.

SEC. 4. Section 54719 is added to the Government Code, to read:

54719. If assessments to be collected through annual installment payments have been authorized pursuant to this chapter, the legislative body may do one or more of the following:

(a) Provide for the accumulation of the money collected from the annual installments in a fund until there is sufficient money to pay all or part of the cost of the maintenance work for which the installment assessments were authorized.

(b) Provide for a temporary advance to the improvement fund from any available and unencumbered funds of the local agency to pay all or part of the cost of the maintenance work for which the installment assessments were authorized and direct that the advance be repaid from the annual installments levied and collected during the fiscal years designated.

(c) Borrow an amount necessary to finance the estimated cost of the maintenance work for which the installment assessments were authorized. The amount borrowed and associated financing costs shall not exceed the amount of revenue estimated to be raised from the annual assessments levied over the designated five fiscal years.

SEC. 5. Section 3114.3 of the Streets and Highways Code is amended to read:

3114.3. If an assessment has been prepaid, in whole or in part, pursuant to the principal act, the treasurer shall record an addendum to the notice of assessment recorded pursuant to Section 3114 which states that the recorded assessment against the identified parcel or parcels has been paid in full or in part, and that the associated lien against those parcels has been discharged in whole or in part.

The addendum and its recording has no effect on the authority of the legislative body with respect to any identified parcel by reason of its inclusion in the assessment district or assessment for the work, acquisitions, or improvements, and a statement to that effect shall be included in the addendum recorded pursuant to this section.

SEC. 6. Section 6616 of the Streets and Highways Code is amended to read:

6616. The plaintiff in the action may also recover the actual cost of any abstract or report of search of title procured in good faith, in order to determine ownership, if it is made by a reputable abstracter or title company, if the abstract or report of search with an affidavit of payment is filed in the action.

SEC. 7. Section 8671 of the Streets and Highways Code is amended to read:

8671. The treasurer or designated paying agent shall keep a redemption fund designated by the name of the bonds, in which he or she shall place all sums received from the collection of the assessments made . The fund shall be considered a trust fund for the benefit of the bondholders. The redemption fund shall be used for paying principal and interest payments on the bonds directly, or money in the fund may be forwarded to the paying agent for these purposes. Under no circumstances shall the bonds or the interest thereon be paid out of any other fund.

SEC. 8. Section 8831 of the Streets and Highways Code is amended to read:

8831. Costs in the action shall be fixed and allowed by the court and shall include a reasonable attorney's fee, interest, penalties and other charges or advances authorized by this division, including reasonable administrative costs incurred by the city in pursuing the foreclosure, and when so fixed and allowed by the court the costs shall be included in the judgment.

SEC. 9. Section 10102 of the Streets and Highways Code is amended to read:

10102. Notwithstanding any other provision of this division, whenever the public interest or convenience requires, the legislative body of any municipality may pay fees or expenses or acquire or install any or all of the works and improvements authorized by, and subject to the limitations with respect to those works and improvements set out in, the Improvement Act of 1911 (Division 7 (commencing with Section 5000)), the Vehicle Parking District Law of 1943 (Part 1 (commencing with Section 31500) of Division 18), the

Parking District Law of 1951 (Part 4 (commencing with Section 35100) of Division 18), the Park and Playground Act of 1909 (Chapter 7 (commencing with Section 38000) of Part 2 of Division 3 of Title 4 of the Government Code), or other works and improvements of a local nature, and may acquire by gift, purchase, or eminent domain proceedings land, rights-of-way, and easements necessary for the works and improvements.

SEC. 10. Section 10110.1 of the Streets and Highways Code is amended to read:

10110.1. If an agreement entered into pursuant to Sections 10109 and 10110 provides for the payment of refunds, and to the extent that the works, appliances, or improvements to which the refund payments are applicable are financed by special assessments, any amounts paid by the public agency, public utility, or mutual water company as a refund payment for the works, appliances, or improvements to be transferred to the public agency, public utility, or mutual water company under the agreement shall be deposited into a special fund to be established and administered by the city treasurer and applied as a credit upon the assessment and supplemental assessment, if any, in the same manner as provided in Section 10427.1, or shall be used to call bonds, or both. The credits shall be applied only to the assessments levied for the particular improvements for which the refund is made. Any such amounts shall be transferred to the general fund of the city if either of the following occurs:

(a) The amounts are paid later than four years from the date of recordation of the assessment and any supplemental assessment.

(b) If bonds have been issued, the amounts have been paid later than four years after the due date of the last installment upon the bonds or of the last principal coupons attached thereto.

SEC. 11. Section 10427 of the Streets and Highways Code is amended to read:

10427. After completion of the improvement and the payment of all claims from the improvement fund, the legislative body shall determine the amount of the surplus, if any, remaining in the improvement fund by reason of the assessment and any supplemental assessment levied for the improvement. The surplus shall be used, in amounts determined by the legislative body, for one or more of the following purposes:

(a) For transfer to the general fund of the city, provided that the amount transferred shall not exceed the lesser of one thousand dollars ($1,000) or 5 percent of the total amount expended from the improvement fund.

(b) As a credit upon the assessment and any supplemental assessment, in the manner provided in Section 10427.1.

(c) For the maintenance of the improvement.

(d) To call bonds, thereby reducing outstanding assessments and subsequent assessment installments. In the event that the legislative body determines to use all or some portion of the surplus to call bonds

prior to maturity, the treasurer shall do each of the following:

(1) Cause the special reserve fund, if any, to be reduced as necessary pursuant to Section 8887 to assure that the bonds will not become subject to federal income taxation.

(2) Cause any assessment previously paid in cash to receive a credit in cash pursuant to subdivision (b) of Section 10427.1 for the proportionate share of the surplus as determined pursuant to subdivision (a) of Section 10427.1.

(3) Cause the preparation of new auditor's records to reflect the adjusted principal amount of the remaining assessment. All subsequent assessment installments shall be based upon the adjusted principal amount of the assessment as reflected in the revised auditor's record.

SEC. 12. Section 22501 of the Streets and Highways Code is amended to read:

22501. This part shall apply to local agencies whose annual taxes are carried on the county assessment roll and are collected by the county, or an agency or entity created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code and made up solely of local agencies whose annual taxes are carried on the county assessment roll and are collected by the county.

SEC. 13. Section 22525 of the Streets and Highways Code is amended to read:

22525. "Improvement" means one or any combination of the following:

(a) The installation or planting of landscaping.

(b) The installation or construction of statuary, fountains, and other ornamental structures and facilities.

(c) The installation or construction of public lighting facilities, including, but not limited to, traffic signals.

(d) The installation or construction of any facilities which are appurtenant to any of the foregoing or which are necessary or convenient for the maintenance or servicing thereof, including, but not limited to, grading, clearing, removal of debris, the installation or construction of curbs, gutters, walls, sidewalks, or paving, or water, irrigation, drainage, or electrical facilities.

(e) The installation of park or recreational improvements, including, but not limited to, all of the following:

(1) Land preparation, such as grading, leveling, cutting and filling, sod, landscaping, irrigation systems, sidewalks, and drainage.

(2) Lights, playground equipment, play courts, and public restrooms.

(f) The maintenance or servicing, or both, of any of the foregoing.

(g) The acquisition of land for park, recreational, or open-space purposes.

(h) The acquisition of any existing improvement otherwise authorized pursuant to this section.

SEC. 14. Section 22530 of the Streets and Highways Code is

amended to read:

22530. "Local agency" means a county, a city and county, a city, a special district, or an agency or entity created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code and made up solely of local agencies whose annual taxes are carried on the county assessment roll and are collected by the county.

SEC. 15. Section 22569 of the Streets and Highways Code is amended to read:

22569. The estimate of the costs of the improvements for the fiscal year shall contain estimates for all of the following:

(a) The total costs for improvements to be made that year, being the total costs of constructing or installing all proposed improvements and of maintaining and servicing all existing and proposed improvements, including all incidental expenses. This may include a reserve which shall not exceed the estimated costs of maintenance and servicing to December 10 of the fiscal year, or whenever the city expects to receive its apportionment of special assessments and tax collections from the county, whichever is later.

(b) The amount of any surplus or deficit in the improvement fund to be carried over from a previous fiscal year.

(c) The amount of any contributions to be made from sources other than assessments levied pursuant to this part.

(d) The amount, if any, of the annual installment for the fiscal year where the legislative body has ordered an assessment for the estimated cost of any improvements to be levied and collected in annual installments.

(e) The net amount to be assessed upon assessable lands within the assessment district, being the total improvement costs, as referred to in subdivision (a), increased or decreased, as the case may be, by any of the amounts referred to in subdivision (b), (c), or (d).

SEC. 16. Section 22608 of the Streets and Highways Code is amended to read:

22608. In annexation proceedings, the resolutions, report, notices of hearing, and right of majority protest shall be limited to the territory proposed to be annexed, and shall be waived with the written consent of all of the owners of property within the territory to be annexed. Notice of hearing on the proposed annexation shall be published, posted, and mailed. Mailed notice may be dispensed with as to all property owners who shall have filed a written request for the annexation of their property.

SEC. 17. Section 22608.1 of the Streets and Highways Code is repealed.

CHAPTER 967

An act to add Chapter 5 (commencing with Section 9100) to Part 3 of Division 6 of the Fish and Game Code, relating to commercial fishing, and making an appropriation therefor.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Chapter 5 (commencing with Section 9100) is added to Part 3 of Division 6 of the Fish and Game Code, to read:

CHAPTER 5. FUEL CONSERVATION ASSISTANCE PROGRAM

9100. The California Energy Extension Service of the Office of Planning and Research shall implement a revolving loan fund program to assist low-income fishing fleet operators reduce their energy costs and conserve fuel by providing low-interest loans to those operators.

9101. Commencing January 1, 1994, and thereafter biennially, the California Energy Extension Service of the Office of Planning and Research shall report to the Legislature on the status of the loan program, including the number and the amounts of loans made, the amount of loans repaid, and a comparison of the ethnic background of the loan recipients with the ethnic background of the low-income fishing fleet operators.

SEC. 2. Notwithstanding Sections 13340 and 16361 of the Government Code and to the extent permitted by federal law, the sum of one million dollars ($1,000,000) of the money in the Federal Trust Fund, created by Section 16360 of the Government Code, received by the state from federal oil overcharge funds in the Petroleum Violation Escrow Account, as defined by Section 155 of the Further Continuing Appropriations Act of 1983 (P.L. 97-377) or other federal law, and received by the state from federal oil overcharge funds available pursuant to court judgments or federal agency orders, is hereby appropriated to the Office of Planning and Research to carry out Section 1 of this act.

CHAPTER 968

An act relating to energy resources, and making an appropriation therefor.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

I am reducing the appropriation contained in Section 1 of Senate Bill No. 399 from $2,575,000 to $2,500,000 by eliminating the following.

(a) Seventy-five thousand dollars ($75,000) to the State Energy Resources Conservation and Development Commission to maintain the commission's intervenor award program established pursuant to Chapter 1436 of the Statutes of 1988, including, but not limited to, support for intervenors in commission proceedings involving energy-related environmental issues.

I am reducing this appropriation because the intervenor award program is not consistent with the Administration's priorities for expenditure of Petroleum Violation Escrow Account funds However, we will continue discussions with the Legislature regarding priorities for the expenditure of Petroleum Violation Escrow Account funds as part of the normal budgetary process.

With the above reduction, I hereby approve SB 399

PETE WILSON, Governor

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

SECTION 1. Notwithstanding Sections 13340 and 15361 of the Government Code, and to the extent permitted by federal law, the sum of two million five hundred seventy-five thousand dollars ($2,575,000) of the money in the Federal Trust Fund, which is created by Section 16360 of the Government Code, received by the state from federal oil overcharge funds in the Petroleum Violation Escrow Account, as defined by Section 155 of the Further Continuing Appropriations Act of 1983 (P.L. 97-377) or other federal law, and from federal oil overcharge funds available pursuant to court judgments or federal agency orders, is hereby appropriated and transferred in accordance with the following:

(a) Seventy-five thousand dollars ($75,000) to the State Energy Resources Conservation and Development Commission to maintain the commission's intervenor award program established pursuant to Chapter 1436 of the Statutes of 1988, including, but not limited to, support for intervenors in commission proceedings involving energy-related environmental issues.

(b) Two million five hundred thousand dollars ($2,500,000) to the Department of Economic Opportunity to be allocated for low-income energy assistance programs as follows:

(1) One million two hundred fifty thousand dollars ($1,250,000) for the department's energy crisis intervention program.

(2) One million two hundred fifty thousand dollars ($1,250,000) for the department's home weatherization program.

SEC. 2. Funds appropriated by this act from the Petroleum Violation Escrow Account shall be disbursed by the Controller, subject to approval by the Director of Finance as to which court judgment or federal agency order is the proper source of those funds.

CHAPTER 969

An act to add Article 4 (commencing with Section 445) to Chapter 1 of Division 3 of the Harbors and Navigation Code, relating to harbors, and making an appropriation therefor.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. The Legislature finds and declares that it is the policy of the state to ensure the safety of persons, vessels, and property using San Pedro Bay, and the tributaries and approaches thereof, and to avoid damage to those waters and surrounding ecosystems as a result of vessel collision or damage, by authorizing the establishment of a privately operated Vessel Traffic Service (VTS) to be operated by the Marine Exchange of Los Angeles-Long Beach Harbor, Inc. The Legislature further finds and declares that it is the policy of the state that all covered vessels, as defined in this act, shall do all of the following:

(a) Report vessel's name, call sign, location, course, and speed, destination, estimated time of arrival, and any impairment to the operation or navigation of the vessel, to the VTS operator upon entering the VTS area, as defined in this act.

(b) Monitor the radio channel dedicated to the VTS at all times the covered vessel is within the VTS area.

(c) Comply with all regulations promulgated by the United States Coast Guard, the Port of Los Angeles, and the Port of Long Beach respecting the VTS for San Pedro Bay.

(d) Adhere to the custom and practice of covered vessels within the VTS area respecting VTS communications and operation.

SEC. 2. Article 4 (commencing with Section 445) is added to Chapter 1 of Division 3 of the Harbors and Navigation Code, to read:

Article 4. Vessel Traffic Service

445. The Marine Exchange of Los Angeles-Long Beach Harbor, Inc., hereafter referred to as the marine exchange, a corporation organized under the Non-Profit Mutual Benefit Corporation Law, may operate a vessel traffic service, in cooperation with, and subject to the supervision of, the United States Coast Guard, for the waters of San Pedro Bay and San Pedro Channel, excluding Santa Monica Bay east of the existing traffic separation scheme, within a radius of 20 nautical miles of the Point Fermin Light, which area shall be known in this article as the "VTS area."

445.5. "Covered vessel," as used in this article, means any of the following:

(a) Each vessel of 300 or more gross tons that is propelled by

machinery.

(b) Each vessel of 100 or more gross tons that is carrying one or more passengers for hire.

(c) Each vessel certified for 150 passengers or more for hire.

(d) Each commercial vessel of 26 feet or over in length engaged in towing another vessel alongside, astern, or by pushing ahead.

(e) Each dredge and floating plant.

446. Every covered vessel shall report to the marine exchange the vessel's name, call sign, location, course, speed, destination, estimated time of arrival, and any impairment to the operation or navigation of the vessel and shall maintain continuous radio monitoring or communication with the marine exchange on the radio channel dedicated to the vessel traffic service whenever the covered vessel is within the VTS area.

446.5. The Ports of Los Angeles and Long Beach may impose fees upon all covered vessels within the VTS area to pay the cost of operating the vessel traffic service.

447. The vessel traffic service shall be advisory in nature. Nothing in this article relieves, or is intended to relieve, any vessel, its owners, agents, charterers, operators, or other responsible or designated parties of command of the vessel or of any responsibilities they would otherwise have respecting the navigation and operation of any vessel. Each vessel within the VTS area shall be responsible for its safe navigation in accordance with the International Regulations for Preventing Collisions at Sea (1972) and any other international and local rules and regulations.

448. (a) It shall be understood and agreed, and shall be the essence of the marine exchange's operation of the vessel traffic service, that the marine exchange act as agent of each covered vessel within the VTS area in providing vessel traffic information and performing all other acts incidental to operation of the vessel traffic service.

(b) A covered vessel shall not assert any claim against the marine exchange or any officer, director, employee, or representative of the marine exchange for any damage, loss, or expense, including any rights of indemnity or other rights of any kind, sustained by the covered vessel or its owners, agents, charterers, operators, crew, or third parties arising out of, or connected with, directly or indirectly, the marine exchange's operation of the vessel traffic service, even though resulting in whole or in part from negligent acts or omissions, of the marine exchange or any officer, director, employee, or representative of the marine exchange.

(c) Each covered vessel shall defend, indemnify, and hold harmless the marine exchange and its officers, directors, employees, and representatives from any and all claims, suits, or actions of any nature by whomsoever asserted, even though resulting or alleged to have resulted from negligent acts or omissions, of the marine exchange or an officer, director, employee, or representative of the marine exchange.

(d) Nothing in subdivisions (b) and (c) of this section shall affect liability or rights which may arise by reason of the gross negligence or intentional or willful misconduct of the marine exchange or an officer, director, employee, or representative of the marine exchange in the operation of the vessel traffic service.

449. (a) The marine exchange and its officers and directors are subject to Section 5047.5 of the Corporations Code to the extent that the marine exchange meets the criteria specified in that section.

(b) Nothing in this section shall be deemed to include the marine exchange or its officers, directors, employees, or representatives within the definition of "responsible party" as defined in subdivision (n) of Section 8670.3 of the Government Code for purposes of the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act.

449.3. The marine exchange shall cooperate fully with the administrator appointed pursuant to Section 8670.4 of the Government Code in the development and implementation of the vessel traffic service system required by Section 8670.21 of the Government Code. Upon certification by the administrator that, pursuant to Section 8670.21, the Coast Guard has commenced operation of a vessel traffic service system for the Los Angeles/Long Beach harbor, the authorization contained in Section 445 for the marine exchange to operate a vessel traffic service is revoked.

449.5. (a) If the authorization for the marine exchange to operate its vessel traffic service is not revoked pursuant to Section 449.3 on or before July 1, 1993, and every two years thereafter, the marine exchange shall submit a complete description of the vessel traffic service to the administrator. After a public hearing, the administrator shall determine whether the elements and operation of the vessel traffic service are consistent with the harbor safety plan for the Los Angeles/Long Beach harbor developed pursuant to Section 8670.23 of the Government Code and the standards of a statewide vessel traffic service plan or system developed pursuant to Section 8670.21 of the Government Code.

(b) If, pursuant to subdivision (a), the administrator determines that the vessel traffic service is inconsistent with the harbor safety plan for the Los Angeles/Long Beach harbor developed pursuant to Section 8670.23 of the Government Code and the standards of a statewide vessel traffic service plan or vessel traffic monitoring and communications system developed pursuant to Section 8670.21 of the Government Code, the administrator shall issue an order to the marine exchange which specifies modifications to the vessel traffic service to eliminate the inconsistencies.

(c) If the marine exchange has not complied with an order within six months of issuance, then the administrator, after a public hearing, may take any or all of the following actions:

(1) Impose on the marine exchange an administrative fine of not more than five thousand dollars ($5,000) for each day the marine exchange does not comply with the administrator's order.

(2) Administratively revoke the authorization provided to the

marine exchange by Section 445 to operate the vessel traffic service.

(d) If authorization for the marine exchange to operate the vessel traffic service is revoked pursuant to this section, the administrator shall take any action that is necessary to expeditiously establish a vessel traffic service for Los Angeles/Long Beach harbor. The action may include the assessment of fees on vessels, port users, and ports, and make needed expenditures, as provided in subdivision (c) of Section 8670.21.

SEC. 3. The Legislature declares that, in enacting this act, and specifically in establishing the geographic limits of the vessel traffic system area as that relates to the reporting and communication requirements for covered vessels within that area, the Legislature intends to exercise the powers of the state to the fullest extent permitted by law.

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

CHAPTER 970

An act to add and repeal Section 61601.16 of the Government Code, relating to community services districts.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 61601.16 is added to the Government Code, to read:

61601.16. (a) In addition to the powers which may be exercised pursuant to this chapter, the board of directors of a district in the County of Mendocino may, pursuant to Section 61601, exercise the powers and duties of a planning commission within the territorial jurisdiction of the district if authorized by the legislative body of the city or county pursuant to Section 65101. Notwithstanding any other provision of law, in the County of Mendocino, service as a member of the board of directors of a district shall not be considered incompatible with service as a member of a planning commission.

(b) This section shall remain in effect only until January 1, 1997, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1997, deletes or extends that date.

SEC. 2. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances of the County of Mendocino.

The facts constituting the special circumstances are:

In the County of Mendocino, there are several community services districts that serve areas which have special land use issues. In order to provide more local participation in land use planning and development decisions in these areas, the Board of Supervisors of the County of Mendocino may wish to appoint the members of the boards of directors of the community services districts to serve as area planning commissioners. However, service as both a member of the board of directors of a community service district and as a member of an area planning commission may be deemed incompatible and may lead to the forfeiture of the first office. In order to prevent the inadvertent forfeiture of offices by local officials in the County of Mendocino, the enactment of this statute is necessary.

CHAPTER 971

An act to amend Sections 1785.18 and 1785.20.5 of the Civil Code, relating to consumer credit reporting agencies.

[Approved by Governor October 13, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 1785.18 of the Civil Code is amended to read:

1785.18. (a) Each consumer credit reporting agency which compiles and reports items of information concerning consumers which are matters of public record, shall specify in any report containing public record information the source from which that information was obtained, including the particular court, if there be such, and the date that the information was initially reported or publicized.

(b) A consumer credit reporting agency which furnishes a consumer credit report for employment purposes, and which for that purpose compiles and reports items of information on consumers which are matters of public record and are likely to have an adverse effect upon a consumer's ability to obtain employment shall, in addition, maintain strict procedures designed to ensure that whenever public record information which is likely to have an adverse effect on a consumer's ability to obtain employment is reported it is complete and up to date. For purposes of this paragraph, items of public record relating to arrests, indictments, convictions, suits, tax liens, and outstanding judgments shall be considered up to date if the current public record status of the item at the time of the report is reported.

(c) No consumer credit reporting agency which furnishes a

consumer credit report for employment purposes shall report information on the age, marital status, race, color, or creed of any consumer.

SEC. 2. Section 1785.20.5 of the Civil Code is amended to read:

1785.20.5. (a) Prior to requesting a consumer credit report for employment purposes, the user of the report shall provide written notice to the person involved. The notice shall inform the person that a report will be used and the source of the report, and shall contain a box that the person may check off to receive a copy of the credit report. If the consumer indicates that he or she wishes to receive a copy of the report, the user shall request that a copy be provided to the person when the user requests its copy from the credit reporting agency. The report to the user and to the subject person shall be provided contemporaneously and at no charge to the subject person.

(b) Whenever employment involving a consumer is denied either wholly or partly because of information contained in a consumer credit report from a consumer credit reporting agency, the user of the consumer credit report shall so advise the consumer against whom the adverse action has been taken and supply the name and address or addresses of the consumer credit reporting agency making the report. No person shall be held liable for any violation of this section if he or she shows by a preponderance of the evidence that, at the time of the alleged violation, he or she maintained reasonable procedures to assure compliance with this section.

CHAPTER 972

An act to amend Section 13340 of the Government Code, relating to local fiscal affairs, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 13340 of the Government Code is amended to read:

13340. (a) Except as provided in subdivision (b), on and after July 1, 1992, no moneys in any fund which, by any statute other than a Budget Act, is continuously appropriated without regard to fiscal years, may be encumbered unless the Legislature, by statute, specifies that the moneys in the fund are appropriated for encumbrance.

(b) Subdivision (a) does not apply to any of the following:

(1) The scheduled disbursement of any local sales and use tax proceeds to an entity of local government pursuant to Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and

Taxation Code.

(2) The scheduled disbursement of any transactions and use tax proceeds to an entity of local government pursuant to Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to assure the orderly disbursement of local sales and use tax proceeds and transactions and use tax proceeds to entities of local government on and after July 1, 1991, it is necessary that this act takes immediate effect.

CHAPTER 973

An act to add Chapter 2.6 (commencing with Section 7286.20) to Part 1.7 of Division 2 of the Revenue and Taxation Code, relating to local taxation.

[Approved by Governor October 13, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Chapter 2.6 (commencing with Section 7286.20) is added to Part 1.7 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 2.6. CALEXICO TRANSACTIONS AND USE TAX

7286.20. (a) The City Council of Calexico may levy a transactions and use tax at a rate of 0.5 percent, if the ordinance or resolution proposing that tax is approved by a majority vote of all members of the city council and the tax is approved by a two-thirds vote of the qualified voters of the city voting in an election on the issue pursuant to Section 53722 of the Government Code. The transactions and use tax shall conform to Part 1.6 (commencing with Section 7251).

(b) The transactions and use tax imposed pursuant to this chapter shall be deemed a special tax pursuant to Article 3.7 (commencing with Section 53720) of Chapter 4 of Division 2 of Title 5 of the Government Code.

7286.21. The net proceeds of the tax imposed by Section 7286.20 shall be used exclusively for the Heffernan Memorial Hospital District.

CHAPTER 974

An act to amend Sections 2074.2 and 2078 of, and to add Section 2073.3 to, the Fish and Game Code, relating to fish and game, and making an appropriation therefor.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 2073.3 is added to the Fish and Game Code, to read:

2073.3. (a) The commission shall publish a notice in the California Regulatory Notice Register of the receipt of a petition prepared pursuant to Section 2072.3 by the department, or by an interested party and referred to the department, pursuant to Section 2073, or the commencement of an evaluation, to add a species to, or remove a species from, the list of endangered species or the list of threatened species pursuant to Section 2072.7. At a minimum, the notice shall include both of the following:

(1) The scientific and common name of the species.

(2) Habitat type, if that information is available in the petition.

(b) The commission shall notify interested persons pursuant to Section 2078, by mail, of the notices prepared pursuant to subdivision (a), and shall mail a copy of the notice to those persons.

SEC. 2. Section 2074.2 of the Fish and Game Code is amended to read:

2074.2. (a) At the scheduled meeting, the commission shall consider the petition, the department's written report, and comments received, and the commission shall make and enter in its public record one of the following findings:

(1) If the commission finds that the petition does not provide sufficient information to indicate that the petitioned action may be warranted, the commission shall publish a notice of finding that the petition is rejected, including the reasons why the petition is not sufficient.

(2) If the commission finds that the petition provides sufficient information to indicate that the petitioned action may be warranted, the commission shall publish a notice of finding that the petition is accepted for consideration. If the accepted petition recommends the addition of a species to either the list of endangered species or the list of threatened species, the commission shall include in the notice that the petitioned species is a candidate species. The commission shall maintain a list of species which are candidate species.

(b) The commission shall publish and distribute the findings relating to the petition pursuant to Section 2078.

SEC. 3. Section 2078 of the Fish and Game Code is amended to read:

2078. (a) To provide all interested persons access to information and notification of pending listing or delisting actions, the commission shall distribute the related agenda of pending actions and those portions of its minutes of actions taken under this article to any individuals who have notified the commission, in writing with their address, of their interest. This notification shall be published in the California Regulatory Notice Register and shall meet the requirements of public notice as required for commission action under Section 2073.3, 2074, 2074.2, 2075, or 2077.

(b) The commission may impose an annual fee on those persons who request inclusion on the list to be notified in order to offset the cost of establishing and maintaining the list, and preparing and mailing the notices. Fees received pursuant to this section shall be deposited in the Fish and Game Preservation Fund.

CHAPTER 975

An act to amend Section 10284 of, and to repeal and add Section 10285 of, the Health and Safety Code, relating to American Indians.

[Approved by Governor October 13, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 10284 of the Health and Safety Code is amended to read:

10284. The State Department of Health Services shall report to the Legislature on or before January 1, 1994, on the implementation of this article. The state department shall also report to the Legislature on or before four years after the date that the initial funding is received to implement this article on the results of the study required by this article.

SEC. 2. Section 10285 of the Health and Safety Code is repealed.

SEC. 3. Section 10285 is added to the Health and Safety Code, to read:

10285. The state department shall begin to implement the activities referred to in Sections 10281, 10282, 10283, and 10284 only upon an appropriation for the specific purpose of funding the activities.

SEC. 4. It is the intent of the Legislature that funds to implement this article be appropriated in the annual Budget Act.

CHAPTER 976

An act to amend Section 12419.8 of, and to add Section 68107 to, the Government Code, relating to collection of fines.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 12419.8 of the Government Code is amended to read:

12419.8. (a) The Controller may, in his or her discretion, offset any amount due a county from a person or entity pursuant to paragraph (1), (2), or (4) of subdivision (c), and shall, at the request of the county, offset any amount due a county from a person or entity pursuant to paragraph (3) of subdivision (c), against any amount owing the person or entity by a state agency on a claim for a refund from the Franchise Tax Board under the Personal Income Tax Law or the Bank and Corporation Tax Law, or a claim for refund from the State Board of Equalization under the Sales and Use Tax Law. Standards and procedures for submission of requests for offsets shall be as prescribed by the Controller. Whenever insufficient funds are available to satisfy an offset request, the Controller, after first applying the amounts available to any amount due a state agency, may allocate the balance among any other requests for offset.

(b) The Controller shall deduct and retain from any amount offset in favor of a county an amount sufficient to reimburse the Controller and the Franchise Tax Board or the State Board of Equalization for their administrative costs of processing the offset payment.

(c) This section shall apply only to any of the following situations:

(1) Where the amount has been reduced to a judgment.

(2) Where the amount is contained in an order of a court.

(3) Where the amount is from a bench warrant for payment of any fine, penalty, or assessment.

(4) Where the amount is delinquent unsecured property taxes on which a certificate lien has been filed for record in the office of the county recorder pursuant to Section 2191.3 of the Revenue and Taxation Code.

(d) For purposes of paragraph (4) of subdivision (c):

(1) Upon the tax collector's request for taxpayer identification numbers required by the Controller's procedures, the assessor shall immediately notify the appropriate assessee, by registered or certified mail, that the request has been made for the purpose of intercepting refunds from the state government due the taxpayer, in order to offset the delinquent property tax obligation. The letter shall state that if the assessee does not pay the outstanding tax amount to the tax collector within 20 days, the required taxpayer identification number will be so provided.

(2) The assessor shall not be named in any action that may be brought as a result of compliance with this subdivision.

SEC. 2. Section 68107 is added to the Government Code, to read:

68107. A court may order a criminal defendant upon whom a fine, forfeiture, or penalty is imposed, to disclose to the court his or her social security number in order to assist in its collection.

CHAPTER 977

An act to amend Section 102051 of the Public Utilities Code, relating to transit.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 102051 of the Public Utilities Code is amended to read:

102051. The district may comprise the Cities of Davis, Folsom, Roseville, Sacramento, and Woodland, and the following described unincorporated territory of the Counties of Sacramento and Yolo:

(a) The unincorporated territory of the County of Sacramento which may be included is described as follows:

(1) Beginning at the northeasterly corner of the Sacramento County line running southeasterly to State Highway Route 50; thence southwesterly along Route 50 to Prairie City Road; thence southeasterly along Prairie City Road to White Rock Road; thence along White Rock Road to Grant Line Road; thence along Grant Line Road to Douglas Road; thence westerly along Douglas Road to Sunrise Blvd.; thence southerly along Sunrise Blvd. to Kiefer Blvd.; thence westerly along Kiefer Blvd. to Excelsior Road; thence southerly along Excelsior Road to Jackson Road; thence northwesterly along Jackson Road to Bradshaw Road; thence southerly along Bradshaw Road to Grant Line Road; thence westerly along Grant Line Road to State Highway Route 99; thence northwesterly along Route 99 to Elk Grove Blvd.; thence easterly along Elk Grove Blvd. to Bruceville Road; thence southerly along Bruceville Road to Bilby Road; thence westerly along Bilby Road to Franklin Blvd.; thence northeasterly along Franklin Blvd. to Elk Grove Blvd.; thence westerly along Elk Grove Blvd. to the intersection of State Highway Route 5; thence northerly along Route 5 to the Sacramento City Limits; thence along the Sacramento City Limits to the Sacramento River; thence along the Sacramento River upstream to the intersection of the Sacramento River and prolongation of San Juan Road; thence easterly along the prolongation of San Juan Road to the Sacramento City Limits; thence along the Sacramento City Limits to Elk Horn Blvd; thence easterly

along Elk Horn Blvd. to the Union Pacific Railroad; thence along the Union Pacific Railroad to Elverta Road; thence easterly along Elverta Road to 16th Street; thence northerly along 16th Street to the Sacramento County line; thence easterly along the Sacramento County line to the point of beginning, and excluding the Cities of Sacramento and Folsom.

(2) Beginning at the southwesterly corner of the intersection of Route 5 and Power Line Road; thence northerly along Power Line Road to Elverta Road; thence easterly along Elverta Road to Lone Tree Road; thence southerly along Lone Tree Road to Route 5; thence westerly along Route 5 to the point of beginning.

(3) All of that property known as the Sacramento County Metropolitan Airport in Natomas Elkhorn Subdivision and Sec. 36, T. 10 N., R. 3 E., M.D.B & M. and filed for record the 29th day of January, 1968, at 4:45 P.M., in Book 26 of Surveys, at Page 12, in the office of the Sacramento County Recorder.

(4) Notwithstanding paragraphs (1), (2), and (3) of this subdivision, the unincorporated territory of the County of Sacramento included in the district shall include the same area as the urban service area proposed to be adopted by the County of Sacramento, as adopted and as hereafter amended.

(b) The unincorporated territory of the County of Yolo which may be included is described as follows:

(1) Beginning at the northeast corner of Sec. 36, T. 9 N., R. 3 E., M.D.B. & M.; thence north ½ mile along the west line of Sec. 30, T. 9 N., R. 4 E., to the west ¼ corner of Sec. 30; thence east ½ mile to the center of Sec. 30; thence north ⅛ mile, more or less, to the north line of Swamp Land Survey No. 970, the point being on the centerline of Tule Lake Road; thence northeasterly along the north line of Swamp Land Survey No. 970 to the centerline of the Sacramento River; thence easterly and southerly down and along the Sacramento River to the south line of Swamp Land Survey No. 815; thence northwesterly along the south line of Swamp Land Survey No. 815 to its southwest corner; thence northeasterly along the west line of Swamp Land Survey No. 815 to a point where it is intersected by the quarter section line running east and west through Sec. 30, T. 8 N., R. 4 E.; thence west ¾ mile, more or less, to the east ¼ corner of Sec. 25, T. 8 N., R. 3 E.; thence north 5½ miles, more or less, to the point of beginning.

(2) Beginning at the intersection of State Highway Route 113 and the Yolo County line southern boundary; thence easterly along the Yolo County line southern boundary to the Davis City Limits; thence meandering along the Davis City Limits to Russell Boulevard; thence westerly along Russell Boulevard to Route 113; thence southerly along Route 113 to the point of beginning.

For purposes of this section, any reference to an avenue, boulevard, highway, railroad, road, or street includes the right-of-way thereof.

CHAPTER 978

An act to amend Sections 6060, 6103, and 6105 of, and to add Sections 5904, 6094, 6365, 6944, and 7266 to, the Harbors and Navigation Code, to amend Section 5101 of the Streets and Highways Code, to add Section 61 to the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), and to add Section 63.5 to the Humboldt Bay Harbor, Recreation, and Conservation District Act (Chapter 1283, Statutes of 1970), relating to water facilities.

[Approved by Governor October 13, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 5904 is added to the Harbors and Navigation Code, to read:

5904. (a) The district may, in any year, levy assessments, reassessments, or special taxes and issue bonds to finance waterway construction projects and related operations and maintenance, or operations and maintenance projects independent of construction projects in accordance with, and pursuant to, the Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code), the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code), the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code), the Benefit Assessment Act of 1982 (Chapter 6.4 (commencing with Section 54703) of the Government Code), the Integrated Financing District Act (Chapter 1.5 (commencing with Section 53175) of Division 2 of Title 5 of the Government Code), the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code), and the Marks-Roos Local Bond Pooling Act of 1985 (Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code).

(b) Sections 5116, 5117, 5118, 5119, 5190, 5191, 5192, 5193, 10104, and 10302 of the Streets and Highways Code shall not apply to assessment proceedings undertaken pursuant to this section.

(c) Notwithstanding the related provisions of any assessment act which the district is authorized to use, any assessment diagram which any of those acts requires to be prepared prior to final approval of the assessment district may show only the exterior boundaries of the assessment district and the boundaries of any assessment zones or improvement areas within the district. The diagram may refer to the county assessor's maps and records for a detailed description of each lot or parcel.

(d) Notwithstanding any other provision of law, the district may

levy and collect assessments and reassessments in the same manner as provided in Article 3 (commencing with Section 51320) of Chapter 2 of Part 7 of Division 15 of the Water Code, to pay any or all of the following:

(1) For the operation and maintenance of projects, including maintenance of lands, easements, rights-of-way, dredge material disposal areas, and remediation.

(2) For the satisfaction of liabilities arising from projects.

(3) To accumulate a fund which may be used to advance the cost of district projects, provided that the advances be repaid, with interest as determined by the commissioners, from assessments, reassessments, special taxes, or fees charged by the district pursuant to this section.

(4) To acquire real property, easements, or rights-of-way for a navigation project or the maintenance of a navigation project.

(5) To acquire real property within the district for the disposal of dredged material.

(e) For purposes of this section, functions designated by Article 3 (commencing with Section 51320) of Chapter 2 of Part 7 of Division 15 of the Water Code to be performed by the board of supervisors, the board of trustees, or valuation commissioners shall be performed by the district's board.

(f) For purposes of this section, the board may order the creation of a separate assessment roll to pay the allowable expenses of any single project or any group or system of projects.

(g) Notwithstanding any other provision of law, all assessments, reassessments, and taxes levied by the district may be collected together with, and not separately from, taxes for county purposes. Any county in which the district is located may collect, at the request of the district, all assessments, reassessments, and special taxes levied by the district and shall cause those revenues to be deposited into the county treasury to the credit of the district. Each county may deduct its reasonable collection and administrative costs.

(h) Notwithstanding any other provision of law, any assessment or reassessment levied pursuant to this section may be apportioned on the basis of land use category, tonnage shipped on the waterway, size and type of vessel using the waterway, front footage, acreage, capital improvements, or other reasonable basis, separately or in combination, as determined by the district commissioners.

(i) Notwithstanding any other provision of law, Division 4 (commencing with Section 2800) of the Streets and Highways Code shall not apply to any assessment levied by the district.

(j) Notwithstanding any other provision of law, no bond issued pursuant to this section shall be used to fund the routine maintenance dredging of channels.

SEC. 2. Section 6060 of the Harbors and Navigation Code is amended to read:

6060. The commissioners shall serve without salary until the yearly gross income of the district, exclusive of taxes levied by the

district, exceeds twenty thousand dollars ($20,000) per year, when the board may, by ordinance, fix their salaries, which shall not exceed the sum of six hundred dollars ($600) per month each.

In addition to any salary received pursuant to this section, the commissioners shall be allowed any actual and necessary expenses incurred in the performance of their duties.

SEC. 3. Section 6094 is added to the Harbors and Navigation Code, to read:

6094. (a) The district may, in any year, levy assessments, reassessments, or special taxes and issue bonds to finance waterway construction projects and related operations and maintenance, or operations and maintenance projects independent of construction projects in accordance with, and pursuant to, the Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code), the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code), the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code), the Benefit Assessment Act of 1982 (Chapter 6.4 (commencing with Section 54703) of the Government Code), the Integrated Financing District Act (Chapter 1.5 (commencing with Section 53175) of Division 2 of Title 5 of the Government Code), the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code), and the Marks-Roos Local Bond Pooling Act of 1985 (Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code).

(b) Sections 5116, 5117, 5118, 5119, 5190, 5191, 5192, 5193, 10104, and 10302 of the Streets and Highways Code shall not apply to assessment proceedings undertaken pursuant to this section.

(c) Notwithstanding the related provisions of any assessment act which the district is authorized to use, any assessment diagram which any of those acts requires to be prepared prior to final approval of the assessment district may show only the exterior boundaries of the assessment district and the boundaries of any assessment zones or improvement areas within the district. The diagram may refer to the county assessor's maps and records for a detailed description of each lot or parcel.

(d) Notwithstanding any other provision of law, the district may levy and collect assessments and reassessments in the same manner as provided in Article 3 (commencing with Section 51320) of Chapter 2 of Part 7 of Division 15 of the Water Code, to pay any or all of the following:

(1) For the operation and maintenance of projects, including maintenance of lands, easements, rights-of-way, dredge material disposal areas, and remediation.

(2) For the satisfaction of liabilities arising from projects.

(3) To accumulate a fund which may be used to advance the cost of district projects, provided that the advances be repaid, with

interest as determined by the commissioners, from assessments, reassessments, special taxes, or fees charged by the district pursuant to this section.

(4) To acquire real property, easements, or rights-of-way for a navigation project or the maintenance of a navigation project.

(5) To acquire real property within the district for disposal of dredged material.

(e) For purposes of this section, functions designated by Article 3 (commencing with Section 51320) of Chapter 2 of Part 7 of Division 15 of the Water Code to be performed by the board of supervisors, the board of trustees, or valuation commissioners shall be performed by the district's board.

(f) For purposes of this section, the board may order the creation of a separate assessment roll to pay the allowable expenses of any single project or any group or system of projects.

(g) Notwithstanding any other provision of law, all assessments, reassessments, and taxes levied by the district may be collected together with, and not separately from, taxes for county purposes. Any county in which the district is located may collect, at the request of the district, all assessments, reassessments, and special taxes levied by the district and shall cause those revenues to be deposited into the county treasury to the credit of the district. Each county may deduct its reasonable collection and administrative costs.

(h) Notwithstanding any other provision of law, any assessment or reassessment levied pursuant to this section may be apportioned on the basis of land use category, tonnage shipped on the waterway, size and type of vessel using the waterway, front footage, acreage, capital improvements, or other reasonable basis, separately or in combination, as determined by the district commissioners.

(i) Notwithstanding any other provision of law, Division 4 (commencing with Section 2800) of the Streets and Highways Code shall not apply to any assessment levied by the district.

(j) Notwithstanding any other provision of law, no bond issued pursuant to this section shall be used to fund the routine maintenance dredging of channels.

SEC. 4. Section 6103 of the Harbors and Navigation Code is amended to read:

6103. The ordinance shall specify the total amount, denomination, method of maturity, and the rate or maximum rate of interest of the bonds, whether other parity revenue bonds may be issued, and in general terms, the acquisitions and improvements to be constructed thereby; and, in addition, shall contain other and further provisions as in the judgment of the board are deemed advisable.

SEC. 5. Section 6105 of the Harbors and Navigation Code is amended to read:

6105. (a) The lien of the bonds of the same issue shall be prior and superior to all revenue bonds subsequently issued.

(b) The district shall only issue parity revenue bonds if the district

board determines, based on an audit of the district's finances conducted under generally accepted accounting principles, that both of the following conditions exist:

(1) The district is not in default in the repayment of any prior issuance of its bonds.

(2) The net revenues of the district for the latest fiscal year have amounted to at least 125 percent of the maximum annual debt service in any fiscal year thereafter, including all indebtedness incurred as the result of additional issues of bonds.

SEC. 6. Section 6365 is added to the Harbors and Navigation Code, to read:

6365. (a) The district may, in any year, levy assessments, reassessments, or special taxes and issue bonds to finance waterway construction projects and related operations and maintenance, or operations and maintenance projects independent of construction projects in accordance with, and pursuant to, the Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code), the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code), the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code), the Benefit Assessment Act of 1982 (Chapter 6.4 (commencing with Section 54703) of the Government Code), the Integrated Financing District Act (Chapter 1.5 (commencing with Section 53175) of Division 2 of Title 5 of the Government Code), the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code), and the Marks-Roos Local Bond Pooling Act of 1985 (Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code).

(b) Sections 5116, 5117, 5118, 5119, 5190, 5191, 5192, 5193, 10104, and 10302 of the Streets and Highways Code shall not apply to assessment proceedings undertaken pursuant to this section.

(c) Notwithstanding the related provisions of any assessment act which the district is authorized to use, any assessment diagram which any of those acts requires to be prepared prior to final approval of the assessment district may show only the exterior boundaries of the assessment district and the boundaries of any assessment zones or improvement areas within the district. The diagram may refer to the county assessor's maps and records for a detailed description of each lot or parcel.

(d) Notwithstanding any other provision of law, the district may levy and collect assessments and reassessments in the same manner as provided in Article 3 (commencing with Section 51320) of Chapter 2 of Part 7 of Division 15 of the Water Code, to pay any or all of the following:

(1) For the operation and maintenance of projects, including maintenance of lands, easements, rights-of-way, dredge material disposal areas, and remediation.

(2) For the satisfaction of liabilities arising from projects.

(3) To accumulate a fund which may be used to advance the cost of district projects, provided that the advances be repaid, with interest as determined by the commissioners, from assessments, reassessments, special taxes, or fees charged by the district pursuant to this section.

(4) To acquire real property, easements, or rights-of-way for a navigation project or the maintenance of a navigation project.

(5) To acquire real property within the district for disposal of dredged material.

(e) For purposes of this section, functions designated by Article 3 (commencing with Section 51320) of Chapter 2 of Part 7 of Division 15 of the Water Code to be performed by the board of supervisors, the board of trustees, or valuation commissioners shall be performed by the district's board.

(f) For purposes of this section, the board may order the creation of a separate assessment roll to pay the allowable expenses of any single project or any group or system of projects.

(g) Notwithstanding any other provision of law, all assessments, reassessments, and taxes levied by the district may be collected together with, and not separately from, taxes for county purposes. Any county in which the district is located may collect, at the request of the district, all assessments, reassessments, and special taxes levied by the district and shall cause those revenues to be deposited into the county treasury to the credit of the district. Each county may deduct its reasonable collection and administrative costs.

(h) Notwithstanding any other provision of law, any assessment or reassessment levied pursuant to this section may be apportioned on the basis of land use category, tonnage shipped on the waterway, size and type of vessel using the waterway, front footage, acreage, capital improvements, or other reasonable basis, separately or in combination, as determined by the district commissioners.

(i) Notwithstanding any other provision of law, Division 4 (commencing with Section 2800) of the Streets and Highways Code shall not apply to any assessment levied by the district.

(j) Notwithstanding any other provision of law, no bond issued pursuant to this section shall be used to fund the routine maintenance dredging of channels.

SEC. 7. Section 6944 is added to the Harbors and Navigation Code, to read:

6944. (a) The district may, in any year, levy assessments, reassessments, or special taxes and issue bonds to finance waterway construction projects and related operations and maintenance, or operations and maintenance projects independent of construction projects in accordance with, and pursuant to, the Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code), the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code), the Municipal Improvement Act of 1913 (Division 12

(commencing with Section 10000) of the Streets and Highways Code), the Benefit Assessment Act of 1982 (Chapter 6.4 (commencing with Section 54703) of the Government Code), the Integrated Financing District Act (Chapter 1.5 (commencing with Section 53175) of Division 2 of Title 5 of the Government Code), the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code), and the Marks-Roos Local Bond Pooling Act of 1985 (Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code).

(b) Sections 5116, 5117, 5118, 5119, 5190, 5191, 5192, 5193, 10104, and 10302 of the Streets and Highways Code shall not apply to assessment proceedings undertaken pursuant to this section.

(c) Notwithstanding the related provisions of any assessment act which the district is authorized to use, any assessment diagram which any of those acts requires to be prepared prior to final approval of the assessment district may show only the exterior boundaries of the assessment district and the boundaries of any assessment zones or improvement areas within the district. The diagram may refer to the county assessor's maps and records for a detailed description of each lot or parcel.

(d) Notwithstanding any other provision of law, the district may levy and collect assessments and reassessments in the same manner as provided in Article 3 (commencing with Section 51320) of Chapter 2 of Part 7 of Division 15 of the Water Code, to pay any or all of the following:

(1) For the operation and maintenance of projects, including maintenance of lands, easements, rights-of-way, dredge material disposal areas, and remediation.

(2) For the satisfaction of liabilities arising from projects.

(3) To accumulate a fund which may be used to advance the cost of district projects, provided that the advances be repaid, with interest as determined by the commissioners, from assessments, reassessments, special taxes, or fees charged by the district pursuant to this section.

(4) To acquire real property, easements, or rights-of-way for a navigation project or the maintenance of a navigation project.

(5) To acquire real property within the district for disposal of dredged material.

(e) For purposes of this section, functions designated by Article 3 (commencing with Section 51320) of Chapter 2 of Part 7 of Division 15 of the Water Code to be performed by the board of supervisors, the board of trustees, or valuation commissioners shall be performed by the district's board.

(f) For purposes of this section, the board may order the creation of a separate assessment roll to pay the allowable expenses of any single project or any group or system of projects.

(g) Notwithstanding any other provision of law, all assessments, reassessments, and taxes levied by the district may be collected

together with, and not separately from, taxes for county purposes. Any county in which the district is located may collect, at the request of the district, all assessments, reassessments, and special taxes levied by the district and shall cause those revenues to be deposited into the county treasury to the credit of the district. Each county may deduct its reasonable collection and administrative costs.

(h) Notwithstanding any other provision of law, any assessment or reassessment levied pursuant to this section may be apportioned on the basis of land use category, tonnage shipped on the waterway, size and type of vessel using the waterway, front footage, acreage, capital improvements, or other reasonable basis, separately or in combination, as determined by the district commissioners.

(i) Notwithstanding any other provision of law, Division 4 (commencing with Section 2800) of the Streets and Highways Code shall not apply to any assessment levied by the district.

(j) Notwithstanding any other provision of law, no bond issued pursuant to this section shall be used to fund the routine maintenance dredging of channels.

SEC. 8. Section 7266 is added to the Harbors and Navigation Code, to read:

7266. (a) The district may, in any year, levy assessments, reassessments, or special taxes and issue bonds to finance waterway construction projects and related operations and maintenance, or operations and maintenance projects independent of construction projects in accordance with, and pursuant to, the Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code), the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code), the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code), the Benefit Assessment Act of 1982 (Chapter 6.4 (commencing with Section 54703) of the Government Code), the Integrated Financing District Act (Chapter 1.5 (commencing with Section 53175) of Division 2 of Title 5 of the Government Code), the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code), and the Marks-Roos Local Bond Pooling Act of 1985 (Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code).

(b) Sections 5116, 5117, 5118, 5119, 5190, 5191, 5192, 5193, 10104, and 10302 of the Streets and Highways Code shall not apply to assessment proceedings undertaken pursuant to this section.

(c) Notwithstanding the related provisions of any assessment act which the district is authorized to use, any assessment diagram which any of those acts requires to be prepared prior to final approval of the assessment district may show only the exterior boundaries of the assessment district and the boundaries of any assessment zones or improvement areas within the district. The diagram may refer to the county assessor's maps and records for a detailed description of each

lot or parcel.

(d) Notwithstanding any other provision of law, the district may levy and collect assessments and reassessments in the same manner as provided in Article 3 (commencing with Section 51320) of Chapter 2 of Part 7 of Division 15 of the Water Code, to pay any or all of the following:

(1) For the operation and maintenance of projects, including maintenance of lands, easements, rights-of-way, dredge material disposal areas, and remediation.

(2) For the satisfaction of liabilities arising from projects.

(3) To accumulate a fund which may be used to advance the cost of district projects, provided that the advances be repaid, with interest as determined by the commissioners, from assessments, reassessments, special taxes, or fees charged by the district pursuant to this section.

(4) To acquire real property, easements, or rights-of-way for a navigation project or the maintenance of a navigation project.

(5) To acquire real property within the district for disposal of dredged material.

(e) For purposes of this section, functions designated by Article 3 (commencing with Section 51320) of Chapter 2 of Part 7 of Division 15 of the Water Code to be performed by the board of supervisors, the board of trustees, or valuation commissioners shall be performed by the district's board.

(f) For purposes of this section, the board may order the creation of a separate assessment roll to pay the allowable expenses of any single project or any group or system of projects.

(g) Notwithstanding any other provision of law, all assessments, reassessments, and taxes levied by the district may be collected together with, and not separately from, taxes for county purposes. Any county in which the district is located may collect, at the request of the district, all assessments, reassessments, and special taxes levied by the district and shall cause those revenues to be deposited into the county treasury to the credit of the district. Each county may deduct its reasonable collection and administrative costs.

(h) Notwithstanding any other provision of law, any assessment or reassessment levied pursuant to this section may be apportioned on the basis of land use category, tonnage shipped on the waterway, size and type of vessel using the waterway, front footage, acreage, capital improvements, or other reasonable basis, separately or in combination, as determined by the district commissioners.

(i) Notwithstanding any other provision of law, Division 4 (commencing with Section 2800) of the Streets and Highways Code shall not apply to any assessment levied by the district.

(j) Notwithstanding any other provision of law, no bond issued pursuant to this section shall be used to fund the routine maintenance dredging of channels.

SEC. 9. Section 61 is added to the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session),

to read:

61. (a) The district may, in any year, levy assessments, reassessments, or special taxes and issue bonds to finance waterway construction projects and related operations and maintenance, or operations and maintenance projects independent of construction projects in accordance with, and pursuant to, the Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code), the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code), the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code), the Benefit Assessment Act of 1982 (Chapter 6.4 (commencing with Section 54703) of the Government Code), the Integrated Financing District Act (Chapter 1.5 (commencing with Section 53175) of Division 2 of Title 5 of the Government Code), the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code), and the Marks-Roos Local Bond Pooling Act of 1985 (Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code).

(b) Sections 5116, 5117, 5118, 5119, 5190, 5191, 5192, 5193, 10104, and 10302 of the Streets and Highways Code shall not apply to assessment proceedings undertaken pursuant to this section.

(c) Notwithstanding the related provisions of any assessment act which the district is authorized to use, any assessment diagram which any of those acts requires to be prepared prior to final approval of the assessment district may show only the exterior boundaries of the assessment district and the boundaries of any assessment zones or improvement areas within the district. The diagram may refer to the county assessor's maps and records for a detailed description of each lot or parcel.

(d) Notwithstanding any other provision of law, the district may levy and collect assessments and reassessments in the same manner as provided in Article 3 (commencing with Section 51320) of Chapter 2 of Part 7 of Division 15 of the Water Code, to pay any or all of the following:

(1) For the operation and maintenance of projects, including maintenance of lands, easements, rights-of-way, dredge material disposal areas, and remediation.

(2) For the satisfaction of liabilities arising from projects.

(3) To accumulate a fund which may be used to advance the cost of district projects, provided that the advances be repaid, with interest as determined by the commissioners, from assessments, reassessments, special taxes, or fees charged by the district pursuant to this section.

(4) To acquire real property, easements, or rights-of-way for a navigation project or the maintenance of a navigation project.

(5) To acquire real property within the district for disposal of dredged material.

(e) For purposes of this section, functions designated by Article 3 (commencing with Section 51320) of Chapter 2 of Part 7 of Division 15 of the Water Code to be performed by the board of supervisors, the board of trustees, or valuation commissioners shall be performed by the district's board.

(f) For purposes of this section, the board may order the creation of a separate assessment roll to pay the allowable expenses of any single project or any group or system of projects.

(g) Notwithstanding any other provision of law, all assessments, reassessments, and taxes levied by the district may be collected together with, and not separately from, taxes for county purposes. Any county in which the district is located may collect, at the request of the district, all assessments, reassessments, and special taxes levied by the district and shall cause those revenues to be deposited into the county treasury to the credit of the district. Each county may deduct its reasonable collection and administrative costs.

(h) Notwithstanding any other provision of law, any assessment or reassessment levied pursuant to this section may be apportioned on the basis of land use category, tonnage shipped on the waterway, size and type of vessel using the waterway, front footage, acreage, capital improvements, or other reasonable basis, separately or in combination, as determined by the district commissioners.

(i) Notwithstanding any other provision of law, Division 4 (commencing with Section 2800) of the Streets and Highways Code shall not apply to any assessment levied by the district.

(j) Notwithstanding any other provision of law, no bond issued pursuant to this section shall be used to fund the routine maintenance dredging of channels.

SEC. 10. Section 63.5 is added to the Humboldt Bay Harbor, Recreation, and Conservation District Act (Chapter 1283, Statutes of 1970), to read:

63.5. (a) The district may, in any year, levy assessments, reassessments, or special taxes and issue bonds to finance waterway construction projects and related operations and maintenance, or operations and maintenance projects independent of construction projects in accordance with, and pursuant to, the Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code), the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code), the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code), the Benefit Assessment Act of 1982 (Chapter 6.4 (commencing with Section 54703) of the Government Code), the Integrated Financing District Act (Chapter 1.5 (commencing with Section 53175) of Division 2 of Title 5 of the Government Code), the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code), and the Marks-Roos Local Bond Pooling Act of 1985 (Article 4 (commencing with Section 6584) of Chapter

5 of Division 7 of Title 1 of the Government Code).

(b) Sections 5116, 5117, 5118, 5119, 5190, 5191, 5192, 5193, 10104, and 10302 of the Streets and Highways Code shall not apply to assessment proceedings undertaken pursuant to this section.

(c) Notwithstanding the related provisions of any assessment act which the district is authorized to use, any assessment diagram which any of those acts requires to be prepared prior to final approval of the assessment district may show only the exterior boundaries of the assessment district and the boundaries of any assessment zones or improvement areas within the district. The diagram may refer to the county assessor's maps and records for a detailed description of each lot or parcel.

(d) Notwithstanding any other provision of law, the district may levy and collect assessments and reassessments in the same manner as provided in Article 3 (commencing with Section 51320) of Chapter 2 of Part 7 of Division 15 of the Water Code, to pay any or all of the following:

(1) For the operation and maintenance of projects, including maintenance of lands, easements, rights-of-way, dredge material disposal areas, and remediation.

(2) For the satisfaction of liabilities arising from projects.

(3) To accumulate a fund which may be used to advance the cost of district projects, provided that the advances be repaid, with interest as determined by the commissioners, from assessments, reassessments, special taxes, or fees charged by the district pursuant to this section.

(4) To acquire real property, easements, or rights-of-way for a navigation project or the maintenance of a navigation project.

(5) To acquire real property within the district for disposal of dredged material.

(e) For purposes of this section, functions designated by Article 3 (commencing with Section 51320) of Chapter 2 of Part 7 of Division 15 of the Water Code to be performed by the board of supervisors, the board of trustees, or valuation commissioners shall be performed by the district's board.

(f) For purposes of this section, the board may order the creation of a separate assessment roll to pay the allowable expenses of any single project or any group or system of projects.

(g) Notwithstanding any other provision of law, all assessments, reassessments, and taxes levied by the district may be collected together with, and not separately from, taxes for county purposes. Any county in which the district is located may collect, at the request of the district, all assessments, reassessments, and special taxes levied by the district and shall cause those revenues to be deposited into the county treasury to the credit of the district. Each county may deduct its reasonable collection and administrative costs.

(h) Notwithstanding any other provision of law, any assessment or reassessment levied pursuant to this section may be apportioned on the basis of land use category, tonnage shipped on the waterway, size

and type of vessel using the waterway, front footage, acreage, capital improvements, or other reasonable basis, separately or in combination, as determined by the district commissioners.

(i) Notwithstanding any other provision of law, Division 4 (commencing with Section 2800) of the Streets and Highways Code shall not apply to any assessment levied by the district.

(j) Notwithstanding any other provision of law, no bond issued pursuant to this section shall be used to fund the routine maintenance dredging of channels.

SEC. 11. Section 5101 of the Streets and Highways Code is amended to read:

5101. Whenever in the opinion of the legislative body the public interest or convenience may require, it may order the whole or any portion, either in length or in width, of any one or more of the streets, places, public ways, or property, easements, or rights-of-way, or tidelands, or submerged lands owned by any city, or tidelands or submerged lands leased by the state to any city for the construction of improvements authorized by subdivision (g), open or dedicated to public use, and any property for which an order for possession prior to judgment has been obtained, to be improved by or have constructed therein, over, or thereon, either singly or in any combination thereof, any of the following:

(a) The grading or regarding, the paving or repaving, the planking or replanking, the macadamizing or remacadamizing, the graveling or regraveling, or the oiling or reoiling thereof.

(b) The construction or reconstruction of sidewalks, crosswalks, steps, safety zones, platforms, seats, statuary, fountains, parks and parkways, recreation areas, including all structures, buildings, and other facilities necessary to make parks and parkways and recreation areas useful for the purposes for which intended, culverts, bridges, curbs, gutters, tunnels, subways, or viaducts.

(c) Sanitary sewers or instrumentalities of sanitation, together with the necessary outlets, cesspools, manholes, catch basins, flush tanks, septic tanks, disposal plants, connecting sewers, ditches, drains, conduits, tunnels, channels, or other appurtenances.

(d) Drains, tunnels, sewers, conduits, culverts, and channels for drainage purposes; with necessary outlets, cesspools, manholes, catch basins, flush tanks, septic tanks, disposal plants, connecting sewers, ditches, drains, conduits, channels, and appurtenances.

(e) Poles, posts, wires, pipes, conduits, tunnels, lamps, and other suitable or necessary appliances for the purpose of lighting the streets, places, or public ways of any such city or property or rights-of-way owned by any such city, or for the purpose of furnishing electricity and electric service or telephone service to property within a city.

(f) Pipes, hydrants, and appliances for fire protection.

(g) Breakwaters, levees, bulkheads, groins, and walls of rock or other material to protect the streets, places, public ways, and other property in any such city, from overflow by water, or to prevent

beach erosion or to promote accretion to beaches.

(h) Wells, pumps, dams, reservoirs, storage tanks, channels, tunnels, conduits, pipes, hydrants, meters, or other appurtenances for supplying or distributing a domestic water supply.

(i) Mains, services, pipes, fittings, valves, regulators, governors, meters, drips, drains, tanks, ditches, tunnels, conduits, channels, or other appurtenances for supplying or distributing a domestic or industrial gas supply.

(j) The construction or maintenance of bomb shelters or fallout shelters which are primarily designed to protect and shelter the population from conventional or nuclear bomb or missile warhead explosions, shellfire, radiation, and fallout in the event of an enemy attack.

(k) Retaining walls, embankments, buildings, and any other structures or facilities necessary or suitable in connection with any of the work mentioned in this section.

(*l*) The planting of trees, shrubs, or other ornamental vegetation.

(m) The construction, repairing, maintaining, or improving of public mooring places for watercraft, channel improvements, and the building, repairing, maintaining, and improving of wharves, piers, docks, slips, quays, moles, port access routes, or other utilities, structures, and appliances necessary or convenient for the promotion or accommodation of commerce, navigation, and the protection of lands within the city, and for aiding and securing access to the waters of those lands to the people of the State of California, in the exercise of their rights to fish, or for the extension of public streets or places.

(n) Compaction of land, change of grade or contours, construction of caissons, retaining walls, drains, and other structures suitable for the purpose of stabilizing land.

(o) All other work which may be deemed necessary to improve the whole or any portion of those streets, places, public ways, property, easements, or rights-of-way owned by the city.

(p) All other work auxiliary to any of the above, which may be required to carry out the above.

CHAPTER 979

An act to add Section 201.3 to the Corporations Code, and to add Section 18104 to the Financial Code, relating to financial institutions.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 201.3 is added to the Corporations Code, to read:

201.3. The Secretary of State shall not file articles for a

corporation the name of which would fall within the prohibitions of Section 18104 of the Financial Code. This section shall not apply to articles filed for a corporation organized in accordance with Section 18100 of the Financial Code.

SEC. 2. Section 18104 is added to the Financial Code, to read:

18104. Except as otherwise authorized under existing law, no person, unless lawfully authorized to do business in this state under the provisions of this division and who is actually engaged in carrying on an industrial loan business, shall:

(a) Do business under any name or title that contains the following terms:

(1) "Industrial Loan Company"

(2) "Investment and Loan Company"

(3) "Thrift Company"

(4) "Thrift and Loan Company"

(b) Use any name or sign or circulate or use any letterhead, billhead, circular or paper whatever, or advertise or represent in any manner that indicates or reasonably implies that the business is the character or kind of business carried on or transacted by an industrial loan business or is likely to lead any person to believe that the business is that of an industrial loan company.

CHAPTER 980

An act to add Section 340.5 to the Welfare and Institutions Code, relating to juveniles.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 340.5 is added to the Welfare and Institutions Code, to read:

340.5. (a) Whenever pursuant to Article 10 (commencing with Section 360) a social worker is assigned to provide child welfare services, family reunification services, or other services to a dependent child of the juvenile court, the juvenile court may, for good cause shown and after an ex parte hearing, issue its order restraining the parents of the dependent child from threatening the social worker, or any member of the social worker's family, with physical harm.

(b) For purposes of this section, "good cause" means at least one threat of physical harm to the social worker, or any member of the social worker's family, made by the person who is to be the subject of the restraining order, with the apparent ability to carry out the threat.

(c) Violation of a restraining order issued pursuant to this section

shall be punishable as contempt.

CHAPTER 981

An act to add Section 5024 to the Vehicle Code, relating to vehicles, and making an appropriation therefor.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) That postsecondary education serves an important public purpose by providing the knowledge and skills necessary for individuals to successfully participate in, and contribute to, today's complex society.

(2) In order to achieve that goal, it is necessary to provide broad educational opportunities for individuals who wish to attend postsecondary educational institutions.

(3) To make those opportunities available to individuals who, due to financial needs, might otherwise not be able to take advantage of those opportunities, it is in the public interest to provide need-based scholarships to those individuals.

(4) The preservation, enhancement, and restoration of natural resources are vital to maintain the high quality of life in this state.

(b) In enacting Section 5024 of the Vehicle Code, the Legislature is establishing a collegiate license plate program, which will allow all California accredited postsecondary educational institutions to participate in a program involving the issuance of special commemorative license plates. The money received through this voluntary program, after deducting all costs to the state, will be held in trust and used only for providing need-based postsecondary education scholarships and for the protection and preservation of the environment. Thus, the program will provide broad benefits to the people of this state at no cost to the taxpayers since the money for the entire program is voluntarily contributed.

SEC. 2. Section 5024 is added to the Vehicle Code, to read:

5024. (a) Any person described in Section 5101 may also apply for a set of commemorative collegiate reflectorized license plates, and the department shall issue those special license plates in lieu of the regular license plates. The collegiate reflectorized plates shall be of a distinctive design, and shall be available in a special series of letters or numbers, or both, as determined by the department. The collegiate reflectorized plates shall also contain the name of the participating institution as well as the reflectorized logotype, motto, symbol, or other distinctive design, as approved by the department,

representing the participating university or college selected by the applicant.

(b) Any public or private postsecondary educational institution in the state, which is accredited or has been accepted as a recognized candidate for accreditation by the Western Association of Schools and Colleges, may indicate to the department its decision to be included in the commemorative collegiate license plate program and submit its distinctive design for the logotype, motto, symbol, or other design. However, no public or private postsecondary educational institution may be included in the program until not less than 5,000 applications are received for license plates containing that institution's logotype, motto, symbol, or other design. Each participating institution shall collect and hold applications for collegiate license plates until it has received at least 5,000 applications. Once the institution has received at least 5,000 applications, it shall submit the applications, along with the necessary fees, to the department. Upon receiving the first application, the institution shall have one calendar year to receive the remaining required applications. If, after that one calendar year, 5,000 applications have not been received, the institution shall refund to all applicants any fees or deposits which have been collected. The requisite number of applications may only be submitted to the department by March 31 of any given calendar year.

(c) In addition to the regular fees for an original registration, a renewal of registration, or a transfer of registration, the following commemorative collegiate license plate fees shall be paid:

(1) Fifty dollars ($50) for the initial issuance of the plates. These plates shall be permanent and shall not be required to be replaced.

(2) Forty dollars ($40) for each renewal of registration which includes the continued display of the plates.

(3) Fifteen dollars ($15) for transfer of the plates to another vehicle.

(4) Thirty-five dollars ($35) for replacement plates, if the plates become damaged or unserviceable.

(d) When payment of renewal fees is not required as specified in Section 4000, or when the person determines to retain the commemorative collegiate license plates upon sale, trade, or other release of the vehicle upon which the plates have been displayed, the person shall notify the department and the person may retain the plates.

(e) Of the revenue derived from the additional special fees provided in this section, less costs incurred by the department pursuant to this section, one-half shall be deposited in the California Collegiate License Plate Fund, which is hereby created, and one-half shall be deposited in the Resources License Plate Fund, which is hereby created.

(f) The money in the California Collegiate License Plate Fund is, notwithstanding Section 13340 of the Government Code, continuously appropriated to the Controller for allocation as follows:

(1) To the governing body of participating public institutions in the proportion that funds are collected on behalf of each, to be used for need-based scholarships, distributed according to federal student aid guidelines.

(2) With respect to funds collected on behalf of accredited nonprofit, private, and independent colleges and universities in the state, to the California Student Aid Commission for grants to students at those institutions, in the proportion that funds are collected on behalf of each institution, who demonstrate eligibility and need in accordance with the California Educational Opportunity Grant program pursuant to Article 3 (commencing with Section 69530) of Chapter 2 of Part 42 of Division 5 of Title 2 of the Education Code, but who did not receive an award based on a listing prepared by the California Student Aid Commission.

(g) The scholarships and grants shall be awarded without regard to race, religion, creed, sex, or age.

(h) The money in the Resources License Plate Fund is available, upon appropriation, for the purposes of natural resources preservation, enhancement, and restoration.

(i) All revenues deposited in, and expenditures from, the California Collegiate License Plate Fund shall be audited by the Auditor General on December 1, 1993, and December 1, 1995.

CHAPTER 982

An act to amend Sections 31590, 31761, 31762, 31763, and 31764 of, and to add Sections 31855.11 and 31855.12 to, the Government Code, relating to retirement.

[Approved by Governor October 13, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 31590 of the Government Code is amended to read:

31590. (a) All warrants, checks, and electronic fund transfers drawn on the retirement fund shall be signed or authorized by the treasurer and at least one other member of the board, who shall be designated by the board. The authorization may be by blanket authorization of all warrants, checks, or electronic fund transfers appearing on a list or register, or may be by a standing order to draw warrants, checks, or electronic fund transfers, which order shall be good until revoked. A warrant, check, or electronic fund transfer is not valid until it is signed or authorized, numbered, and recorded by the county auditor, except as provided in subdivision (c).

(b) Any person entitled to the receipt of benefits may authorize the payment of the benefits to be directly deposited by electronic

fund transfer into the person's account at the financial institution of the person's choice under a program for direct deposit by electronic transfer established by the treasurer. The direct deposit shall discharge the system's obligation in respect to that payment.

(c) The treasurer, with the approval of the board of retirement, may authorize a trust company or trust department of any state or national bank authorized to conduct the business of a trust company in this state or the Federal Reserve Bank of San Francisco or any branch thereof within this state, to process and issue benefit payments by check or electronic fund transfer.

SEC. 2. Section 31761 of the Government Code is amended to read:

31761. Optional settlement 1 consists of the right to elect in writing to have a retirement allowance paid him or her until his or her death and, if he or she dies before he or she receives in annuity payments the amount of his or her accumulated contributions at retirement, to have the balance at death paid to his or her estate or to the person, having an insurable interest in his or her life, as he or she nominates by written designation duly executed and filed with the board.

SEC. 3. Section 31762 of the Government Code is amended to read:

31762. Optional settlement 2 consists of the right to elect in writing to have a retirement allowance and paid him or her until his or her death, and thereafter to the person, having an insurable interest in his or her life, as he or she nominates by written designation duly executed and filed with the board at the time of his or her retirement.

SEC. 4. Section 31763 of the Government Code is amended to read:

31763. Optional settlement 3 consists of the right to elect in writing to have a retirement allowance paid him or her until his or her death, and thereafter to have one-half of his or her retirement allowance paid to the person, having an insurable interest in his or her life, as he or she nominates by written designation duly executed and filed with the board at the time of his or her retirement.

SEC. 5. Section 31764 of the Government Code is amended to read:

31764. Optional settlement 4 consists of the right to elect in writing to have a retirement allowance paid him or her until his or her death and thereafter to have other benefits as are approved by the board, upon the advice of the actuary, continued throughout the life of and paid to the persons, having an insurable interest in his or her life, as he or she nominates by written designation duly executed and filed with the board at the time of his or her retirement. The designation shall not, in the opinion of the board and the actuary, place any additional burden upon the retirement system.

SEC. 6. Section 31855.11 is added to the Government Code, to read:

31855.11. Upon the death of a member prior to retirement who was a member continuously for not less than 18 months immediately prior to the member's death and who is survived by one or more children but no surviving spouse, or who is survived by one or more children who are not being cared for by the surviving spouse, the child or children shall be entitled to a monthly survivor's allowance as specified in Section 31855.8 or 31855.12, as the case may be. The monthly survivor's allowance of two or more children shall be divided equally as to those children.

This section is an alternative to Section 31855.6.

This section shall not be operative in any county which has adopted this article, until the board of supervisors, by resolution adopted by a majority vote, makes this section operative in the county.

SEC. 7. Section 31855.12 is added to the Government Code, to read:

31855.12. Monthly survivor's allowances shall be based upon the following table:

Member's survivors	Monthly allowances
Surviving spouse caring for one child	$1,390
Surviving spouse caring for two or more children	1,622
One child only	695
Two children only	1,390
Three or more children	1,622
Widow or widower age 62 (no child)	768
Widow or widower age 60 (no child)	663
Each of two dependent parents at age 62	695
Sole dependent parent at age 62	795
Lump-sum payment	255

This section is an alternative to Section 31855.8.

This section shall not be operative in any county which has adopted this article, until the board of supervisors, by resolution adopted by a majority vote, makes this section operative in the county.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 983

An act to amend Sections 2014, 2171, 2175, 2176, 2177.5, 2183, 2184, 2212, 2221, 2499.5, 4939, 4945.5, and 17537.2 of, to add Section 3735.3 to, to repeal Sections 2023 and 2214 of, and to amend, repeal, and add Sections 4945 and 4965 of, the Business and Professions Code, relating to business and professions.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 2014 of the Business and Professions Code is amended to read:

2014. Notice of each meeting of the board or a division shall be given in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 2. Section 2023 of the Business and Professions Code is repealed.

SEC. 3. Section 2171 of the Business and Professions Code is amended to read:

2171. All examinations shall be designed to ascertain the applicant's fitness to practice medicine. Unless otherwise provided the examination shall be in writing.

SEC. 4. Section 2175 of the Business and Professions Code is amended to read:

2175. Examination records shall be kept on file by the Division of Licensing for a period of two years or more. Examinees shall be known and designated by number only, and the name attached to the number shall be kept secret until the examinee is sent notification of the results of the examinations.

SEC. 5. Section 2176 of the Business and Professions Code is amended to read:

2176. Examinations for a physician's and surgeon's certificate may be conducted by the Division of Licensing under a uniform examination system, and for that purpose the division may make such arrangements with organizations furnishing examination material as it may deem desirable.

The Division of Licensing may, in its discretion, designate other written examinations for a physician's and surgeon's certificate that the division determines are equivalent to any other written examination for a physician's and surgeon's certificate conducted by the division.

SEC. 6. Section 2177.5 of the Business and Professions Code is amended to read:

2177.5. Applicants who apply on or after January 1, 1986, may elect to take only Part I, the basic and clinical science portion, of the

written examination prescribed in this article separately from Part II, the clinical competency portion. A passing score established by the Division of Licensing is required on each part of the examination.

SEC. 7. Section 2183 of the Business and Professions Code is amended to read:

2183. Applicants for a physician's and surgeon's certificate shall pass an examination in the basic sciences and clinical sciences, as determined by the Division of Licensing.

Such applicants shall also pass an examination designed to test their clinical competence.

SEC. 8. Section 2184 of the Business and Professions Code is amended to read:

2184. (a) Each applicant shall obtain on the written examination a passing score, established by the division pursuant to Section 2177.5.

(b) Passing scores on the written examination shall be valid for a period of 10 years from the month of the examination for purposes of qualification for licensure in California.

This period of validity may be extended by the division for good cause and for time spent in a postgraduate training program, including, but not limited to, residency training, fellowship training, remedial or refresher training, or other training that is intended to maintain or improve medical skills.

Upon expiration of the 10-year period plus any extension granted by the division, the applicant shall pass the Special Purpose Examination of the Federation of State Medical Boards or a clinical competency written examination determined by the division to be equivalent.

This subdivision applies to all passing scores achieved in a written examination for a physician and surgeon's certificate conducted by the division.

SEC. 9. Section 2212 of the Business and Professions Code is amended to read:

2212. The division may assess a charge with respect to a loan made under this article for failure of the borrower to pay all or part of an installment when due and, in the case of a borrower who is entitled to a loan cancellation under Section 2208, for any failure to file timely and satisfactory evidence of such entitlement. The amount of any such charge may not exceed five dollars ($5) for each month by which the installment or evidence is late, except that there shall be no charge for the first month.

SEC. 10. Section 2214 of the Business and Professions Code is repealed.

SEC. 11. Section 2221 of the Business and Professions Code is amended to read:

2221. (a) The Division of Licensing may deny a physician's and surgeon's license to any applicant guilty of unprofessional conduct or of any cause that would subject a licensee to revocation or suspension of his or her license; or, the division in its sole discretion, may issue a probationary license to an applicant subject to terms and

conditions, including, but not limited to, any of the following conditions of probation:

(1) Practice limited to a supervised, structured environment where the licensee's activities shall be supervised by another physician and surgeon.

(2) Total or partial restrictions on drug prescribing privileges for controlled substances.

(3) Continuing medical or psychiatric treatment.

(4) Ongoing participation in a specified rehabilitation program.

(5) Enrollment and successful completion of a clinical training program.

(6) Abstention from the use of alcohol or drugs.

(7) Restrictions against engaging in certain types of medical practice.

(8) Compliance with all provisions of this chapter.

(b) The Division of Licensing may modify or terminate the terms and conditions imposed on the probationary license upon receipt of a petition from the licensee.

(c) Enforcement and monitoring of the probationary conditions shall be under the jurisdiction of the Division of Medical Quality which may initiate disciplinary proceedings to revoke or suspend the probationary license for any violation of probation or for any cause that would subject a licensee to revocation or suspension. Upon satisfactory completion of probation, the Division of Licensing shall convert the probationary license to a regular license free from conditions.

SEC. 12. Section 2499.5 of the Business and Professions Code is amended to read:

2499.5. The following fees apply to certificates to practice podiatric medicine. The amount of fees prescribed for doctors of podiatric medicine shall be those set forth in this section unless a lower fee is fixed by the board in accordance with Section 2499.6. Fees collected pursuant to this section shall be fixed by the board in amounts not to exceed the actual costs of providing the service for which the fee is collected.

(a) Each applicant for a certificate by written examination, unless otherwise provided by this chapter, shall pay an application fee fixed by the board at an amount of one hundred fifty dollars ($150).

(b) Each applicant for a certificate based upon a national board examination, and each applicant for a certificate based upon reciprocity shall pay an application fee of twenty dollars ($20) at the time the application is filed. If the applicant qualifies for a certificate, he or she shall pay a fee which shall be fixed by the board at an amount not to exceed one hundred dollars ($100) nor less than five dollars ($5) for the issuance of the certificate.

(c) The oral examination fee shall be seven hundred dollars ($700), or the actual cost, whichever is lower, and shall be paid by each applicant. If the applicant's credentials are insufficient or if the applicant does not desire to take the examination, and has so notified

the board 30 days prior to the examination date, only the examination fee is returnable to the applicant. The board may charge an examination fee for any subsequent reexamination of the applicant.

(d) Each applicant who qualifies for a certificate, as a condition precedent to its issuance, in addition to other fees required by this section, shall pay an initial license fee. The initial license fee shall be eight hundred dollars ($800). The initial license shall expire the second year after its issuance on the last day of the month of birth of the licensee. The board may reduce the initial license fee by up to 50 percent of the amount of the fee for any applicant who is enrolled in a postgraduate training program approved by the board or who has completed a postgraduate training program approved by the board within six months prior to the payment of the initial license fee.

(e) The biennial renewal fee shall be eight hundred dollars ($800). Any licensee enrolled in an approved residency program shall be required to pay only 50 percent of the biennial renewal fee at the time of his or her first renewal.

(f) The delinquency fee is one hundred fifty dollars ($150).

(g) The duplicate wall certificate fee is forty dollars ($40).

(h) The duplicate renewal receipt fee is forty dollars ($40).

(i) The endorsement fee is thirty dollars ($30).

(j) The letter of good standing fee or for loan deferment is thirty dollars ($30).

(k) There shall be a fee of sixty dollars ($60) for the issuance of a limited license under Section 2475.

(*l*) The application fee for certification under Section 2473 shall be fifty dollars ($50). The examination and reexamination fee for this certification shall be seven hundred dollars ($700).

(m) The filing fee to appeal the failure of an oral examination shall be twenty-five dollars ($25).

(n) The fee for approval of a continuing education course or program shall be one hundred dollars ($100).

SEC. 13. Section 3735.3 is added to the Business and Professions Code, to read:

3735.3. An applicant for a license as a respiratory care practitioner may not sit for the examination unless a verification from the program director, in a form acceptable to the examining committee, declaring the applicant has graduated from the training program is received in the examining committee's office at least 15 days prior to the date of the examination. A certified copy of a certificate of completion or official transcript from the training program shall be submitted to the examining committee prior to the issuance of a license as a respiratory care practitioner.

SEC. 14. Section 4939 of the Business and Professions Code is amended to read:

4939. (a) The committee shall establish standards for the approval of schools and colleges offering education and training in the practice of an acupuncturist, including standards for the faculty

in those schools and colleges, and tutorial programs, completion of which will satisfy the requirements of Section 4938.

(b) Within three years of initial approval by the committee each program so approved by the committee shall receive full institutional approval under Section 94310 of the Education Code in the field of traditional oriental medicine, or in the case of institutions located outside of this state, approval by the appropriate governmental educational authority using standards equivalent to those of Section 94310 of the Education Code, or the committee's approval of the program shall automatically lapse.

SEC. 15. Section 4945 of the Business and Professions Code is amended to read:

4945. (a) The committee shall establish standards for continuing education for acupuncturists.

(b) The committee shall require each acupuncturist to complete 15 hours of continuing education every year as a condition for renewal of his or her certificate. A provider of continuing education shall apply to the committee for approval to offer continuing education courses for credit toward this requirement on a form developed by the committee, shall pay a fee covering the cost of approval and for the monitoring of the provider by the committee and shall set forth the following information on the application:

(1) Course content.

(2) Test criteria.

(3) Hours of continuing education credit requested for the course.

(4) Experience and training of instructors.

(5) Other information as required by the committee.

(6) That interpreters or bilingual instruction will be made available, when necessary.

(c) Licensees residing out of state or out of the country shall comply with the continuing education requirements.

(d) Providers of continuing education shall be monitored by the committee as determined by the committee.

(e) If the committee determines that any acupuncturist has not obtained the required number of hours of continuing education, it may renew the acupuncturist's license and require that the deficient hours of continuing education be made up during the following renewal period in addition to the current continuing education required for that period. If any acupuncturist fails to make up the deficient hours and complete the current requirement of hours of continuing education during the subsequent renewal period, then his or her license to practice acupuncture shall not be renewed until all the required hours are completed and documented to the committee.

(f) This section shall remain in effect only until January 1, 1996, and shall have no force or effect on or after that date, unless a later enacted statute, which is enacted before January 1, 1996, deletes or extends that date.

SEC. 16. Section 4945 is added to the Business and Professions

Code, to read:

4945. (a) The committee shall establish standards for continuing education for acupuncturists.

(b) The committee shall require each acupuncturist to complete 30 hours of continuing education every two years as a condition for renewal of his or her certificate. A provider of continuing education shall apply to the committee for approval to offer continuing education courses for credit toward this requirement on a form developed by the committee, shall pay a fee covering the cost of approval and for the monitoring of the provider by the committee and shall set forth the following information on the application:

(1) Course content.

(2) Test criteria.

(3) Hours of continuing education credit requested for the course.

(4) Experience and training of instructors.

(5) Other information as required by the committee.

(6) That interpreters or bilingual instruction will be made available, when necessary.

(c) Licensees residing out of state or out of the country shall comply with the continuing education requirements.

(d) Providers of continuing education shall be monitored by the committee as determined by the committee.

(e) If the committee determines that any acupuncturist has not obtained the required number of hours of continuing education, it may renew the acupuncturist's license and require that the deficient hours of continuing education be made up during the following renewal period in addition to the current continuing education required for that period. If any acupuncturist fails to make up the deficient hours and complete the current requirement of hours of continuing education during the subsequent renewal period, then his or her license to practice acupuncture shall not be renewed until all the required hours are completed and documented to the committee.

(f) This section shall become operative January 1, 1996.

SEC. 17. Section 4945.5 of the Business and Professions Code is amended to read:

4945.5. As a condition of renewal of his or her license, each acupuncturist licensed prior to January 1, 1988, shall by his or her 1993 renewal date, submit to the committee evidence of having satisfactorily completed 40 hours of continuing education which shall cover all of the following subjects: general oriental medical principles, technique, theory, basic Western clinical science, location and use of acupuncture points, and case studies. The committee shall determine the curriculum which shall be covered within each subject matter specified in this section. This section shall take precedence over Section 4945 until January 1, 1994, and no acupuncturist shall be made to comply with both Section 4945 and this section. The requirement for specified coursework within the continuing education mandate pursuant to this section is intended to

address circumstances relating to the acupuncture profession, and is not intended to set a precedent for other licensure boards.

This section shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1994, deletes or extends that date.

SEC. 18. Section 4965 of the Business and Professions Code is amended to read:

4965. (a) Certificates issued pursuant to this chapter shall expire annually on the last day of the birth month of the licensee, if not renewed.

(b) The committee shall establish and administer a birth date renewal program.

(c) To renew an unexpired certificate, the holder shall apply for renewal on a form provided by the committee and pay the renewal fee fixed by the committee.

(d) This section shall remain in effect only until January 1, 1996, and shall have no force or effect on or after that date, unless a later enacted statute, which is enacted before January 1, 1996, deletes or extends that date.

SEC. 19. Section 4965 is added to the Business and Professions Code, to read:

4965. (a) Certificates issued pursuant to this chapter shall expire on the last day of the birth month of the licensee during the second year of a two-year term, if not renewed.

(b) The committee shall establish and administer a birth date renewal program.

(c) To renew an unexpired certificate, the holder shall apply for renewal on a form provided by the committee and pay the renewal fee fixed by the committee.

(d) This section shall become operative January 1, 1996.

SEC. 20. Section 17537.2 of the Business and Professions Code is amended to read:

17537.2. The following, when used as part of an advertising plan or program defined in Section 17537.1, are deceptive and constitute unfair trade practices:

(a) When, in order to utilize the incentive, the recipient is requested to pay any money to any person or entity named or referred to in the offer, or to purchase, rent, or otherwise pay that person or entity for any product or service including a deposit, whether returnable or not, whether payment is for an item, a service, shipping, handling, insurance or payment for anything.

Notwithstanding the preceding paragraph, when the offered incentive is a certificate or coupon redeemable for transportation, accommodations, recreation, vacation, entertainment, or like services, the offer may place a condition on the use of the incentive which requires the recipient to pay directly to the transportation company, the accommodation, recreation, vacation or entertainment facility, or similar direct provider of like services, a refundable deposit, not to exceed fifty dollars ($50), to reserve space

availability or admission, only if the deposit shall be returned in United States dollars immediately upon the recipient's arrival at the location of the provider to whom the recipient paid the deposit. If the incentive is such a certificate or coupon, and if government-imposed taxes directly related to the service being provided are not included in the incentive, the offer itself, in close proximity to the description of the incentive which is evidenced by the certificate or coupon, shall disclose those government-imposed taxes which will be the recipient's responsibility and the approximate dollar amount of those taxes. A deposit from the recipient may be collected to cover the cost of those government-imposed taxes.

(b) Stating or implying in the offer that the recipient is one of a selected group to receive a particular incentive or one or more of a group of incentives, without clearly and conspicuously disclosing in close proximity to the statement or implied statement of selection the total number of persons in that select group or the odds of receiving the incentive or incentives. Statements of selection which require such disclosure include such phrases as "you are a finalist," "we are sending this to a limited number of people," "either you or another named person has won the major prize," "if you do not respond, your incentive will be given to someone else."

(c) Stating or implying in the offer that the recipient is likely to receive one or more of the offered incentives because other named people have already received other named incentives, unless the offer clearly and conspicuously discloses in close proximity to the statement the recipient's odds of receiving the identified incentive.

(d) When the solicitation states or implies that the recipient is likely to receive an incentive which has a normal retail price which is higher than that of another named incentive unless that statement is true. For purposes of this section, a list of incentives implies that the incentives are in descending or ascending order of value unless the solicitation clearly and conspicuously negates the implication in close proximity to the list.

(e) Describing an incentive or incentives in an untrue or misleading manner. Untrue or misleading descriptions include those which imply that the incentive being offered is of greater fair market value or of a different kind or nature than a recipient would be led to believe from a reasonable reading of the offer, or which lists the recipient's name in close proximity to a specific incentive unless the offer clearly and conspicuously discloses immediately next to or immediately under or above the recipient's name the recipient's odds of receiving the specific incentive.

(f) Subdivision (a) shall not apply to an incentive constituting an opportunity to stay at a hotel or other resort accommodations at a discount from the standard rate for the hotel or resort accommodations, if all of the following conditions are met:

(1) The fee to utilize the incentive and the requirement, if any, to attend a sales presentation are clearly and conspicuously disclosed in close proximity to the description of the offered incentive.

(2) The accommodations to be occupied by the recipient of the incentive are within the boundaries of the property on which the accommodations offered for sale are located.

(3) The incentive is not offered in conjunction with any other incentive or incentives or as one or more of a group of incentives.

CHAPTER 984

An act to amend Sections 46010 and 46010.5 of, and to add Sections 2550.3, 2550.4, 42238.7, 42238.8, and 46010.2 to, the Education Code, relating to education, and making an appropriation therefor.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. The Legislature hereby recognizes the existing link between attendance and the amount of apportionment revenue earned by schools. The Legislature also recognizes that the current funding system for average daily attendance encourages schools to classify questionable absences as apportionment absences because of the otherwise potential loss in revenue.

The Legislature recognizes that frequent absence from school, excused or unexcused, has an adverse effect on a pupil's learning ability because pupils not only fall behind in their studies and miss concepts and relationships that are critical to understanding any subject, they also miss important socialization experiences. The Legislature also recognizes that when absentees return to school, they require more individual attention from their teachers, thus depriving regular attendees of the teachers' full attention. The Legislature, however, does recognize that there are legitimate reasons for absences, as listed in Sections 46010 and 48205 of the Education Code.

The Legislature advocates a simplified attendance accounting system for calculating apportionments that would motivate schools and districts to develop and implement programs and strategies that would increase actual pupil attendance for apportionment and pupil achievement purposes. The Legislature recognizes that a simplified system for attendance accounting and bookkeeping procedures would make time available for attendance personnel to implement incentive strategies for improving attendance.

The Legislature further recognizes that poor school attendance is the most frequently identified characteristic of pupils who are potential dropouts. The Legislature also recognizes that, statistically, pupils leaving school prior to graduation face higher unemployment rates and lower wages and earnings than other workers, are more likely to require public assistance, and are more susceptible to

engaging in criminal activity.

It is the intent of the Legislature to encourage school districts and county offices of education to develop and implement strategies and activities that emphasize the importance of school attendance and that encourage pupils to attend school regularly. It is also the intent of the Legislature to encourage school districts to use an attendance accounting procedure that promotes accountability and the most efficient and effective use of public funds. It is also the intent of the Legislature, in enacting this act, to offer an alternative definition of average daily attendance, using actual attendance and a one-time modification of base revenue limits for the purpose of determining base revenue limits only, and actual attendance plus a factor representing each district's base year rate of apportionable excused absences for all other purposes, thereby offering the option of avoiding the current verification of absence process for apportionment purposes.

SEC. 2. Section 2550.3 is added to the Education Code, to read:

2550.3. Each county superintendent of schools, as a condition of apportionment, shall report separately to the Superintendent of Public Instruction, not later than July 1, 1992, the actual attendance and apportionable absences for the schools maintained by the county superintendent for each full school month in the 1990–91 school year.

Each report shall be prepared in accordance with instructions and on forms prescribed by the Superintendent of Public Instruction.

SEC. 3. Section 2550.4 is added to the Education Code, to read:

2550.4. Commencing January 1, 1993, any county office of education may request the Superintendent of Public Instruction to make a one-time base revenue limit adjustment for the next fiscal year, provided that the request is made before April 15 preceding the fiscal year for which the adjustment is to be made. In response to each request, the Superintendent of Public Instruction shall, subject to the approval of the Director of Finance, make a one-time adjustment to the base revenue limit of each county office of education for those programs which, prior to the adjustment year, were authorized in subdivision (b) of Section 46010 and in Section 46010.5 to report certain absences for apportionment credit. Those one-time adjustments shall apply for the fiscal year for which the request for adjustment was made, and for each fiscal year thereafter, but not for any prior year, and shall be accomplished by revision of the prior fiscal year base revenue limits calculated for those programs, as follows:

(a) Determine revised base revenue limits for the fiscal year prior to the first year of adjustment for each of the programs. Each revised base revenue limit shall equal funding received for the program for that prior fiscal year that is directly attributable to the original base revenue limit for that program, divided by the actual attendance for that program in that prior fiscal year.

(b) If the actual attendance as a percentage of the program's total apportionment attendance in that prior fiscal year is lower than the

corresponding statewide average percentage in the 1990–91 school year for programs of the same type, the divisor shall be the product of the program's total apportionment attendance in the prior year, multiplied by the statewide average percentage of actual attendance for those programs in 1990–91.

SEC. 4. Section 42238.7 is added to the Education Code, to read:

42238.7. The governing board of each school district, as a condition of apportionment, shall report separately to the Superintendent of Public Instruction, not later than July 1, 1992, the actual attendance and apportionable absences for the schools maintained by the district for each full school month in the 1990–91 school year.

Each report shall be prepared in accordance with instructions and on forms prescribed by the Superintendent of Public Instruction.

SEC. 5. Section 42238.8 is added to the Education Code, to read:

42238.8. Commencing January 1, 1993, any school district may request the Superintendent of Public Instruction to make a one-time base revenue limit adjustment for the next fiscal year, provided that the request is made before April 15 preceding the fiscal year for which the adjustment is to be made. In response to each request, the Superintendent of Public Instruction shall, subject to the approval of the Director of Finance, make a one-time adjustment to the base revenue limit of each school district. That one-time adjustment shall apply for the fiscal year for which the request for adjustment was made, and for each fiscal year thereafter, but not for any prior year, and shall be accomplished by revision of the prior fiscal year base revenue limit calculated for each school district, as follows:

(a) Determine a revised base revenue limit for the fiscal year prior to the first year of adjustment for each school district. That revised base revenue limit shall equal the amount of funding received by the school district for that prior fiscal year that is directly attributable to the original base revenue limit for the district, divided by the actual attendance for that district in that prior fiscal year.

(b) If the actual attendance as a percentage of the district's total apportionment attendance in that prior year is lower than the corresponding statewide average percentage for elementary school districts, high school districts, or unified school districts, as applicable to the requesting district, in the 1990–91 school year, the divisor shall be the product of the district's total apportionment attendance in the prior year, multiplied by the statewide average percentage of actual attendance for districts of the same type in 1990–91.

SEC. 6. Section 46010 of the Education Code is amended to read:

46010. (a) The total days of attendance of a pupil upon the schools and classes maintained by a school district, or schools or classes maintained by the county superintendent of schools during the fiscal year shall be the number of days school was actually taught for not less than the minimum schooldays during the fiscal year less the sum of his absences.

(b) The absence of a pupil from school or class shall be excused

for the purposes of Section 48260 and shall not, in any county office of education or school district that has not had its base revenue limit adjusted pursuant to Section 2550.4 or Section 42238.8, respectively, be deemed an absence in computing the attendance of a pupil if that absence was:

(1) Due to his or her illness.

(2) Due to quarantine under the direction of a county or city health officer.

(3) For the purpose of having medical, dental, optometrical, or chiropractic services rendered.

(4) For the purpose of attending the funeral services of a member of his or her immediate family, so long as the absence is not more than one day if the service is conducted in California and not more than three days if the service is conducted outside California.

(5) For the purpose of jury duty in the manner provided for by law.

(6) Due to exclusion from school pursuant to Section 3381 of the Health and Safety Code, so long as the absence is not more than five schooldays pursuant to Section 46010.5.

"Immediate family," as used in this subdivision, has the same meaning as that set forth in Section 45194 except that references therein to "employee" shall be deemed to be references to "pupil."

The provisions of this subdivision shall not apply in the case of pupils attending summer school, adult schools, and classes, or regional occupational centers and programs other than pupils concurrently enrolled in a regular high school program and a regional occupational center or program.

SEC. 7. Section 46010.2 is added to the Education Code, to read:

46010.2. In county offices of education and school districts that have had their base revenue limits adjusted pursuant to Section 2550.4 or Section 42238.8, respectively, the following shall apply:

(a) For the purpose of determining "increases in enrollment" pursuant to subdivision (b) of Section 8 of Article XVI of the California Constitution, as required by paragraph (e) of subdivision (2) of Section 41204, the total days of attendance by pupils in schools and classes maintained by a county office of education or school district shall, in the school year that their one-time base revenue limit adjustment is made pursuant to Section 2550.4 or 42238.8, respectively, be separately calculated both as if subdivision (b) of Section 46010 did and did not apply to them. The amount resulting from the application of subdivision (b) of Section 46010 shall be used in comparison with the year prior to the one-time base revenue limit adjustment only. The amount calculated without applying subdivision (b) of Section 46010 shall be used in comparison with the year subsequent to the one-time revenue limit adjustment.

(b) For all other purposes than determining base revenue limit apportionments and increases in enrollment as provided in subdivision (a), the total days of attendance by pupils in schools and classes maintained by a county office of education or school district

shall first be calculated according to subdivision (a) of Section 46010, and then increased by the same percentage of apportionable absences authorized pursuant to subdivision (b) of Section 46010 for that county office of education or school district in the 1990-91 school year. This amount shall not exceed the corresponding statewide average in that year, for county offices of education or elementary school districts, high school districts, or unified school districts, as applicable, of the number of days of attendance by pupils in the 1990-91 school year, calculated as provided in subdivision (a) of Section 46010.

SEC. 8. Section 46010.5 of the Education Code is amended to read:

46010.5. The county office of education or the governing board of the school district of attendance shall exclude any pupil who has not been immunized properly pursuant to Chapter 7 (commencing with Section 3380) of Division 4 of the Health and Safety Code. In any county office of education or school district that has not had its base revenue limit adjusted pursuant to Section 2550.4 or Section 42238.8, respectively, the first five schooldays of the exclusion shall not be deemed an absence in computing average daily attendance if the following conditions are complied with:

(a) The governing board of the district notifies the parent or guardian of the pupil that they have two weeks to supply evidence either that the pupil has been properly immunized, or that the pupil is exempted from the immunization requirement pursuant to Section 3385 or Section 3386 of the Health and Safety Code.

(b) The governing board of the district, in that notice, refers the parent or guardian of the pupil to the pupil's usual source of medical care to obtain the immunization, or if no usual source exists, either refers the parent or guardian to the county health department, or notifies the parent that the immunizations will be administered at a school of the district.

SEC. 9. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 10. The sum of forty-five thousand dollars ($45,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for administrative costs associated with the implementation of the alternative attendance accounting system required by this act.

SEC. 11. Prior to January 1, 1993, the State Department of Education shall review and prepare findings regarding the potential impact of this act upon the distribution of lottery funds to educational entities, the equalization of funding between school districts, and the distribution and amount of funding pursuant to Section 8 of Article XVI of the California Constitution. The department shall report the findings to the Director of Finance for his or her guidance in exercising the approval authority granted to him or her in Sections 2550.4 and 42238.8 of the Education Code, pursuant to Sections 3 and 5 of this act.

CHAPTER 985

An act to amend Sections 1570.2, 1570.7, and 1580 of the Health and Safety Code, and to amend Sections 14521 and 14529 of the Welfare and Institutions Code, relating to adult day health care.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 1570.2 of the Health and Safety Code is amended to read:

1570.2. The Legislature hereby finds and declares that there exists a pattern of overutilization of long-term institutional care for elderly persons , and that there is an urgent need to establish and to continue a community-based system of quality adult day health care which will enable elderly persons to maintain maximum independence. While recognizing that there continues to be a substantial need for facilities providing custodial care, overreliance on this type of care has proven to be a costly panacea in both financial and human terms, often traumatic, and destructive of continuing family relationships and the capacity for independent living.

It is, therefore, the intent of the Legislature in enacting this chapter and related provisions to provide for the development of policies and programs which will accomplish the following:

(a) Assure that elderly persons are not institutionalized inappropriately or prematurely.

(b) Provide a viable alternative to institutionalization for those elderly persons who are capable of living at home with the aid of appropriate health care or rehabilitative and social services.

(c) Establish adult day health centers in the community for this purpose, which will be easily accessible to all participants, including the economically disadvantaged elderly person, and which will provide outpatient health, rehabilitative, and social services necessary to permit the participants to maintain personal independence and lead meaningful lives.

(d) Include the services of adult day health centers as a benefit under the Medi-Cal Act, which shall be an initial and integral part in the development of an overall plan for a coordinated, comprehensive continuum of optional long-term care services based upon appropriate need.

(e) Establish a rural alternative adult day health care program which is designed to meet the special needs and requirements of rural areas to enable the implementation of subdivisions (a) through (d), inclusive, for all Californians in need of those services.

SEC. 2. Section 1570.7 of the Health and Safety Code is amended to read:

1570.7. As used in this chapter:

(a) "Adult day health care" means an organized day program of therapeutic, social, and health activities and services provided pursuant to this chapter to elderly persons with functional impairments, either physical or mental, for the purpose of restoring or maintaining optimal capacity for self-care. Provided on a short-term basis, adult day health care serves as a transition from a health facility or home health program to personal independence. Provided on a long-term basis, it serves as an option to institutionalization in long-term health care facilities, when 24-hour skilled nursing care is not medically necessary or viewed as desirable by the recipient or his or her family.

(b) "Adult day health center" or "adult day health care center" means a licensed and certified facility which provides adult day health care.

(c) "Elderly" or "older person" means a person 55 years of age or older, but also includes other persons who are chronically ill or impaired and who would benefit from adult day health care.

(d) "Individualized plan of care" means a plan designed to provide recipients of adult health care with appropriate treatment in accordance with the assessed needs of each individual.

(e) "License" means a basic permit to operate an adult day health center. With respect to a health facility licensed pursuant to Chapter 2 (commencing with Section 1250), "license" means a special permit, as defined by Section 1251.5, empowering the health facility to provide adult day health care services.

(f) "Maintenance program" means procedures and exercises that are provided to a participant, pursuant to Section 1580, in order to generally maintain existing function. These procedures and exercises are planned by a licensed or certified therapist and are provided by a person who has been trained by a licensed or certified therapist and who is directly supervised by a nurse or by a licensed or certified therapist.

(g) "Planning council" or "council" means an adult day health care planning council established pursuant to Section 1572.5.

(h) "Restorative therapy" means physical, occupational, and speech therapy, and psychiatric and psychological services, that are planned and provided by a licensed or certified therapist. The

therapy and services may also be provided by an assistant or aide under the appropriate supervision of a licensed therapist, as determined by the licensed therapist. The therapy and services are provided to restore function, when there is an expectation that the condition will improve significantly in a reasonable period of time, as determined by the multidisciplinary assessment team.

(i) "State review committee" or "committee" means the Long-Term Care Committee established pursuant to Section 1572.

(j) "Department" or "state department" means the Department of Aging or the State Department of Health Services as specified in the interagency agreement between the two departments.

SEC. 3. Section 1580 of the Health and Safety Code is amended to read:

1580. The state department shall adopt and may from time to time amend or repeal, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the reasonable rules and regulations as may be necessary or proper to carry out the purposes and intent of this chapter and to enable the state department to exercise the powers and perform the duties conferred upon it by this chapter, not inconsistent with any statute of this state. The regulations shall prescribe standards of safety and sanitation for the physical plant of adult day health centers and standards for the quality of adult day health care services, including, but not limited to, staffing with duly qualified personnel and average daily staffing requirements. For the purposes of computing average daily attendance staffing requirements, maintenance programs for elderly persons shall, as of January 1, 1992, be included in the calculation for monthly total hours of services provided. In adopting the regulations, the state department shall take into account the physical and mental capabilities and needs of the persons to be served, and consideration shall be given to flexible application of safety and sanitation standards, if necessary, to be consistent with the legislative intent of establishing adult day health care programs in locations easily accessible to economically disadvantaged older persons. Program standards contained in regulations adopted pursuant to this section shall be those specified in Chapter 8.7 (commencing with Section 14520) of Part 3 of Division 9 of the Welfare and Institutions Code.

SEC. 4. Section 14521 of the Welfare and Institutions Code is amended to read:

14521. It is the intent of the Legislature in enacting this chapter to establish adult day health care as a Medi-Cal benefit and allow persons eligible to receive the benefits under Chapter 7 (commencing with Section 14000) of this part, and who have medical or psychiatric impairments, to receive adult day health care services. It is the intent of the Legislature in authorizing this Medi-Cal benefit to establish and continue a community-based system of quality day health services which will (1) ensure that elderly persons not be institutionalized prematurely and inappropriately, (2) provide

appropriate health and social services designed to maintain elderly persons in their own homes, (3) establish adult day health centers in locations easily accessible to the economically disadvantaged elderly person , and (4) encourage the establishment of rural alternative adult day health care centers which are designed to make adult day health care accessible to impaired Californians living in rural areas.

SEC. 5. Section 14529 of the Welfare and Institutions Code is amended to read:

14529. (a) The multidisciplinary health team conducting an assessment shall consist of at least the individual's personal physician or a staff physician, or both, a registered nurse, and a social worker.

(b) For the initial assessment, the multidisciplinary health team shall also include a physical therapist and an occupational therapist. In addition, when the need is identified by a physician or nurse, qualified consultants with skills in recreational therapy, speech language pathology, or dietary assessment shall serve as team members.

(c) The multidisciplinary team described in subdivision (b) shall conduct an initial assessment. At the time of reassessment, if an individual plan of care has been developed by the physical therapist or the occupational therapist, they shall reassess the participant to determine any ongoing or different needs for physical therapy or occupational therapy services. If it is determined that no further physical therapy or occupational therapy is needed, the physical therapist and the occupational therapist shall not be required to sign the treatment plan. For further reassessments, the nurse or physician shall determine if the physical therapist or occupational therapist is needed.

(d) The assessment team shall:

(1) Determine the medical, psychosocial, and functional status of each participant.

(2) Develop an individualized plan of care, including goals, objectives, and services designed to meet the needs of the person, which shall be signed by each member of the multidisciplinary team, except that the signature of only one physician member of the team shall be required.

(3) At least biannually reassess the participant's individualized plan care and make any necessary adjustments to the plan.

(4) If the initial assessment or any subsequent reassessment shows that restorative therapy is needed, acute rehabilitative treatment shall be provided by the appropriate licensed or certified personnel.

(5) If the initial assessment or any subsequent reassessment shows that restorative therapy is not needed, the multidisciplinary team shall determine whether the participant requires maintenance program services and if the team finds that the participant requires these services, the multidisciplinary team shall develop an individual maintenance program as part of the plan of care.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the

only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 986

An act to amend Sections 1067.07, 1067.08, 1067.09, 1067.10, 1067.12, and 1067.17 of, and to add Articles 10.5 (commencing with Section 930) and 15.5 (commencing with Section 1077) to Chapter 1 of Part 2 of Division 1 of, the Insurance Code, relating to insurance.

[Approved by Governor October 13, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Article 10.5 (commencing with Section 930) is added to Chapter 1 of Part 2 of Division 1 of the Insurance Code, to read:

Article 10.5. National Association of Insurance Commissioners

930. The provisions of this article shall apply to all domestic, foreign, and alien insurers doing business in this state.

931. (a) Each domestic, foreign, and alien insurer doing business in this state shall annually, on or before the first day of March of each year, file with the National Association of Insurance Commissioners a copy of its annual statement convention blank, along with any additional filings as prescribed by the commissioner for the preceding year. The information filed with the National Association of Insurance Commissioners shall be in the same format and scope as that required by the commissioner and shall include the signed jurat page and the actuarial certification. Any amendments and addendums to the annual statement filing subsequently filed with the commissioner shall also be filed with the National Association of Insurance Commissioners.

(b) Foreign insurers that are domiciled in a state which has a law substantially similar to subdivision (a) of this section shall be deemed in compliance with this section.

932. In the absence of actual malice, members of the National Association of Insurance Commissioners, their duly authorized committees, subcommittees, and task forces, their delegates, National Association of Insurance Commissioners' employees, and all

others charged with the responsibility of collecting, reviewing, analyzing, and disseminating the information developed from the filing of the annual statement convention blanks shall be acting as agents of the commissioner under the authority of this article and shall not be subject to civil liability for libel, slander, or any other cause of action by virtue of their collection, review, and analysis or dissemination of the data and information collected from the filings required herein.

933. All financial analysis ratios and examination synopses concerning insurers that are submitted to the department by the National Association of Insurance Commissioners' Insurance Regulatory Information System are confidential and may not be disclosed by the department.

934. The commissioner may suspend, revoke, or refuse to renew the certificate of authority of any insurer failing to file its annual statement with the National Association of Insurance Commissioners when due or within any extension of time which the commissioner, for good cause, may grant.

SEC. 2. Section 1067.07 of the Insurance Code is amended to read:

1067.07. (a) If a member insurer is an impaired domestic insurer, the association may, in its discretion, and subject to any conditions imposed by the association that do not impair the contractual obligations of the impaired insurer, that are approved by the commissioner, and that are, except in cases of court-ordered conservation or rehabilitation, also approved by the impaired insurer, do any of the following:

(1) Guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured, any or all of the policies or contracts of the impaired insurer.

(2) Provide moneys, pledges, notes, guarantees, or other means proper to effectuate paragraph (1) and assure payment of the contractual obligations of the impaired insurer pending action under paragraph (1).

(3) Loan money to the impaired insurer.

(b) (1) If a member insurer is an impaired insurer, whether domestic, foreign, or alien, and the insurer is not paying claims timely, then subject to the preconditions specified in paragraph (2), the association shall, in its discretion, either:

(A) Take any of the actions specified in subdivision (a), subject to the conditions therein.

(B) Provide substitute benefits in lieu of the contractual obligations of the impaired insurer solely for periodic annuity benefit payments, death benefits, supplemental benefits, and cash withdrawals for policy or contract owners who petition therefor under claims of emergency or hardship in accordance with standards proposed by the association and approved by the commissioner.

(2) The association shall be subject to the requirements of paragraph (1) only if subparagraphs (A) and (B) apply:

(A) The laws of its state of domicile provide that until all payments of or on account of the impaired insurer's contractual obligations by all guaranty associations, along with all expenses thereof and interest on all of those payments and expenses, shall have been repaid to the guaranty associations or a plan of repayment by the impaired insurer shall have been approved by the guaranty associations, all of the following apply:

(i) The delinquency proceeding shall not be dismissed.

(ii) Neither the impaired insurer nor its assets shall be returned to the control of its shareholders or private management.

(iii) It shall not be permitted to solicit or accept new business or have any suspended or revoked license restored.

(B) Either clause (i) or (ii) applies:

(i) The impaired insurer is a domestic insurer, and it has been placed under an order of rehabilitation by a court of competent jurisdiction in this state.

(ii) The impaired insurer is a foreign or alien insurer, and all of the following apply:

(I) It has been prohibited from soliciting or accepting new business in this state.

(II) Its certificate of authority has been suspended or revoked in this state.

(III) A petition for rehabilitation or liquidation has been filed in a court of competent jurisdiction in its state of domicile by the commissioner of the state.

(c) If a member insurer is an insolvent insurer, the association shall, in its discretion, either do those things described in paragraph (1) or in paragraph (2):

(1) (A) Guaranty, assume, or reinsure, or cause to be guaranteed, assumed or reinsured, the policies or contracts of the insolvent insurer; or

(B) Assure payment of the contractual obligations of the insolvent insurer; and

(C) Provide those moneys, pledges, guarantees, or other means as are reasonably necessary to discharge the duties.

(2) With respect only to life insurance policies, provide benefits and coverages in accordance with subdivision (d).

(d) When proceeding under subparagraph (B) of paragraph (1) of subdivision (b), or paragraph (2) of subdivision (c), the association shall, with respect to only life insurance policies:

(1) Assure payment of benefits for premiums identical to the premiums and benefits, except for terms of conversion and renewability, that would have been payable under the policies of the insolvent insurer, for claims incurred:

(A) With respect to group policies, not later than the earlier of the next renewal date under the policies or contracts or 45 days, but in no event less than 30 days, after the date on which the association becomes obligated with respect to the policies.

(B) With respect to individual policies, not later than the earlier

of the next renewal date, if any, under the policies or one year, but in no event less than 30 days, from the date on which the association becomes obligated with respect to such policies.

(2) Make diligent efforts to provide all known insureds or group policyholders, with respect to group policies, 30 days notice of the termination of the benefits provided.

(3) With respect to individual policies, make available to each known insured, or owner if other than the insured, and with respect to an individual formerly insured under a group policy who is not eligible for replacement group coverage, make available substitute coverage on an individual basis in accordance with the provisions of paragraph (4), if the insureds had a right under law of the terminated policy to convert coverage to individual coverage or to continue an individual policy in force until a specified age or for a specified time, during which the insurer had no right unilaterally to make changes in any provision of the policy or had a right only to make changes in premium by class.

(4) (A) In providing the substitute coverage required under paragraph (3), the association may offer either to reissue the terminated coverage or to issue an alternative policy.

(B) Alternative or reissued policies shall be offered without requiring evidence of insurability, and shall not provide for any waiting period or exclusion that would not have applied under the terminated policy.

(C) The association may reinsure any alternative or reissued policy.

(5) (A) Alternative policies adopted by the association shall be subject to the approval of the commissioner. The association may adopt alternative policies of various types for future issuance without regard to any particular impairment or insolvency.

(B) Alternative policies shall contain at least the minimum statutory provisions required in this state and provide benefits that shall not be unreasonable in relation to the premium charged. The association shall set the premium in accordance with a table of rates which it shall adopt. The premium shall reflect the amount of insurance to be provided and the age and class of risk of each insured, but shall not reflect any changes in the health of the insured after the original policy was last underwritten.

(C) Any alternative policy issued by the association shall provide coverage of a type similar to that of the policy issued by the impaired or insolvent insurer, as determined by the association.

(6) If the association elects to reissue terminated coverage at a premium rate different from that charged under the terminated policy, the premium shall be set by the association in accordance with the amount of insurance provided and the age and class of risk, subject to approval of the commissioner or by a court of competent jurisdiction.

(7) The association's obligations with respect to coverage under any policy of the impaired or insolvent insurer or under any reissued

or alternative policy shall cease on the date that coverage or policy is replaced by another similar policy by the policyholder, the insured, or the association.

(e) When proceeding under subparagraph (B) of paragraph (1) of subdivision (b) or under subdivision (c) with respect to any policy or contract carrying guaranteed minimum interest rates, the association shall assure the payment or crediting of a rate of interest consistent with subparagraph (C) of paragraph (2) of subdivision (b) of Section 1067.02.

(f) Nonpayment of premiums within 31 days after the date required under the terms of any guaranteed, assumed, alternative, or reissued policy or contract or substitute coverage shall terminate the association's obligations under the policy or coverage under this article with respect to that policy or coverage, except with respect to any claims incurred or any net cash surrender value which may be due in accordance with the provisions of this article.

(g) Premiums due for coverage after entry of an order of liquidation of an insolvent insurer shall belong to and be payable at the direction of the association, and the association shall be liable for unearned premiums due to policy or contract owners arising after the entry of that order.

(h) The protection provided by this article shall not apply where any guaranty protection is provided to residents of this state by the laws of the domiciliary state or jurisdiction of the impaired or insolvent insurer other than this state.

(i) In carrying out its duties under subdivisions (b) and (c), the association may, subject to approval by the court, do either of the following:

(1) Impose permanent policy or contract liens in connection with any guarantee, assumption, or reinsurance agreement, if the association finds that the amounts which can be assessed under this article are less than the amounts needed to assure full and prompt performance of the association's duties under this article, or that the economic or financial conditions as they affect member insurers are sufficiently adverse to render the imposition of the permanent policy or contract liens, to be in the public interest.

(2) Impose temporary moratoriums or liens on payments of cash values and policy loans, or any other right to withdraw funds held in conjunction with policies or contracts, in addition to any contractual provisions for deferral of cash or policy loan value.

(j) If the association fails to act within a reasonable period of time as provided in subparagraph (B) of paragraph (1) of subdivision (b), and subdivisions (c) and (d), the commissioner shall have the powers and duties of the association under this article with respect to impaired or insolvent insurers.

(k) The association may render assistance and advice to the commissioner, upon his or her request, concerning rehabilitation, payment of claims, continuance of coverage, or the performance of other contractual obligations of any impaired or insolvent insurer.

(*l*) The association shall have standing to appear before any court in this state with jurisdiction over an impaired or insolvent insurer concerning which the association is or may become obligated under this article. That standing shall extend to all matters germane to the powers and duties of the association, including, but not limited to, proposals for reinsuring, modifying, or guaranteeing the policies or contracts of the impaired or insolvent insurer and the determination of the policies or contracts and contractual obligations. The association shall also have the right to appear or intervene before a court in another state with jurisdiction over an impaired or insolvent insurer for which the association is or may become obligated or with jurisdiction over a third party against whom the association may have rights through subrogation of the insurer's policyholders.

(m) (1) Any person receiving benefits under this article shall be deemed to have assigned the rights under, and any causes of action relating to, the covered policy or contract to the association to the extent of the benefits received because of this article, whether the benefits are payments of or on account of contractual obligations, continuation of coverage or provision of substitute or alternative coverages. The association may require an assignment to it of those rights and cause of action by any payee, policy or contract owner, beneficiary, insured, or annuitant as a condition precedent to the receipt of any right or benefits conferred by this article upon that person.

(2) The subrogation rights of the association under this subdivision shall have the same priority against the assets of the impaired or insolvent insurer as that possessed by the person entitled to receive benefits under this article.

(3) In addition to paragraphs (1) and (2), the association shall have all common law rights of subrogation and any other equitable or legal remedy which would have been available to the impaired or insolvent insurer or holder of a policy or contract with respect to such policy or contracts.

(n) The association may do any of the following:

(1) Enter into contracts necessary or proper to carry out the provisions and purposes of this article.

(2) Sue or be sued, including taking any legal actions necessary or proper to recover any unpaid assessments under Section 1067.08 and to settle claims or potential claims against it.

(3) Borrow money to effect the purposes of this article. Any notes or other evidence of indebtedness of the association not in default shall be legal investments for domestic insurers and may be carried as admitted assets.

(4) Employ or retain an executive director and other persons necessary to handle the financial transactions of the association, and to perform other functions necessary or proper under this article provided that the executive director shall be subject to the approval of the commissioner.

(5) Take legal action necessary to avoid payment of improper

claims.

(6) Exercise, for the purposes of this article and to the extent approved by the commissioner, the powers of a domestic life insurer, but in no case may the association issue insurance policies or annuity contracts other than those issued to perform its obligations under this article.

(o) The association may join an organization of one or more other state associations of similar purposes, to further the purposes and administer the powers and duties of the association.

SEC. 3. Section 1067.08 of the Insurance Code is amended to read:

1067.08. (a) For the purpose of providing the funds necessary to carry out the powers and duties of the association, the board of directors shall assess the member insurers, separately for each account, at such time and for such amounts as the board finds necessary. Assessments shall be due not less than 30 days after prior written notice to the member insurers and shall accrue interest at 10 percent per annum on and after the due date.

(b) There shall be two assessments, as follows:

(1) Class A assessments shall be made for the purpose of meeting administrative and legal costs and other expenses and examinations conducted under the authority of subdivision (e) of Section 1067.11. Class A assessments may be made whether or not related to a particular impaired or insolvent insurer.

(2) Class B assessments shall be made to the extent necessary to carry out the powers and duties of the association under Section 1067.07 with regard to an impaired or an insolvent insurer.

(c) (1) The amount of any class A assessment shall be determined by the board and may be made on a pro rata or non-pro rata basis. If pro rata, the board may provide that it be credited against future class B assessments. A non-pro rata assessment shall not exceed two hundred fifty dollars ($250) per member insurer in any one calendar year. The amount of any class B assessment shall be allocated for assessment purposes among the accounts pursuant to an allocation formula which may be based on the premiums or reserves of the impaired or insolvent insurer or any other standard deemed by the board in its sole discretion as being fair and reasonable under the circumstances.

(2) Class B assessments against member insurers for each account shall be in the proportion that the premiums received on business in this state by each assessed member insurer on policies or contracts covered by each account for the three most recent calendar years for which information is available preceding the year in which the insurer became impaired or insolvent, as the case may be, bears to such premiums received on business in this state for those calendar years by all assessed member insurers.

(3) Assessments for funds to meet the requirements of the association with respect to an impaired or insolvent insurer shall not be made until necessary to implement the purposes of this article.

Classification of assessments under subdivision (b) and computation of assessments under this subdivision shall be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible.

(d) The association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. In the event an assessment against a member insurer is abated, or deferred in whole or in part, the amount by which that assessment is abated or deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section.

(e) (1) The total of all assessments upon a member insurer for either account shall not in any one calendar year exceed one percent of the insurer's average premiums received in this state on the policies and contracts covered by the account during the three calendar years preceding the year in which the insurer became an impaired or insolvent insurer. If the maximum assessment, together with the other assets of the association in any account, does not provide in any one year in either account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed as soon thereafter as permitted by this article.

(2) The board may provide in the plan of operation a method of allocating funds among claims, whether relating to one or more impaired or insolvent insurers, when the maximum assessment will be insufficient to cover anticipated claims.

(f) The board may, by an equitable method as established in the plan of operation, refund to member insurers, in proportion to the contribution of each insurer to that account, the amount by which the assets of the account exceed the amount the board finds is necessary to carry out during the coming year the obligations of the association with regard to that account, including assets accruing from assignment, subrogation, net realized gains and income from investments. A reasonable amount may be retained in any account to provide funds for the continuing expenses of the association and for future losses.

(g) It shall be proper for any member insurer, in determining its premium rates and policyowner dividends as to any kind of insurance within the scope of this article, to consider the amount reasonably necessary to meet its assessment obligations under this article.

(h) The association shall issue to each insurer paying an assessment under this article, other than class A assessment, a certificate of contribution, in a form prescribed by the commissioner, for the amount of the assessment so paid. All outstanding certificates shall be of equal dignity and priority without reference to amounts or date of issue. A certificate of contribution may be shown by the insurer in its financial statement as an asset in the form and for the

amount, if any, and period of time as the commissioner may approve.

SEC. 4. Section 1067.09 of the Insurance Code is amended to read:

1067.09. (a) (1) The association shall submit to the commissioner a plan of operation and any amendments thereto necessary or suitable to assure the fair, reasonable, and equitable administration of the association. The plan of operation and any amendments thereto shall become effective upon the commissioner's written approval or unless he or she has not disapproved it within 30 days.

(2) If the association fails to submit a suitable plan of operation within 120 days following the effective date of this article or if at any time thereafter the association fails to submit suitable amendments to the plan, the commissioner shall, after notice and hearing, adopt and promulgate those reasonable rules necessary or advisable to effectuate the provisions of this article. The rules shall continue in force until modified by the commissioner or superseded by a plan submitted by the association and approved by the commissioner.

(b) All member insurers shall comply with the plan of operation.

(c) The plan of operation shall, in addition to requirements enumerated elsewhere in this article, do all of the following:

(1) Establish procedures for handling the assets of the association.

(2) Establish the amount and method of reimbursing members of the board of directors under Section 1067.06.

(3) Establish regular places and times for meetings including telephone conference calls of the board of directors.

(4) Establish procedures for records to be kept of all financial transactions of the association, its agents, and the board of directors.

(5) Establish the procedures whereby selections for the board of directors will be made and submitted to the commissioner.

(6) Establish any additional procedures for assessments under Section 1067.08.

(7) Contain additional provisions necessary or proper for the execution of the powers and duties of the association.

(d) The plan of operation may provide that any or all powers and duties of the association, except those under paragraph (3) of subdivision (n) of Section 1067.07 and Section 1067.08, are delegated to a corporation, association, or other organization which performs or will perform functions similar to those of this association, or its equivalent, in two or more states. That corporation, association, or organization shall be reimbursed for any payments made on behalf of the association and shall be paid for its performance of any function of the association. A delegation under this subdivision shall take effect only with the approval of both the board of directors and the commissioner, and may be made only to a corporation, association, or organization which extends protection not substantially less favorable and effective than that provided by this article.

SEC. 5. Section 1067.10 of the Insurance Code is amended to

read:

1067.10. In addition to the duties and powers enumerated elsewhere in this article:

(a) The commissioner shall:

(1) Upon request of the board of directors, provide the association with a statement of the premiums in this and any other appropriate states for each member insurer.

(2) When an impairment is declared and the amount of the impairment is determined, serve a demand upon the impaired insurer to make good the impairment within a reasonable time; notice to the impaired insurer shall constitute notice to its shareholders, if any; the failure of the insurer to promptly comply with such demand shall not excuse the association from the performance of its powers and duties under this article.

(3) In any liquidation or rehabilitation proceeding involving a domestic insurer, be appointed as the liquidator or rehabilitator.

(b) The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative the commissioner may levy a forfeiture on any member insurer which fails to pay an assessment when due. The forfeiture shall not exceed 5 percent of the unpaid assessment per month, but no forfeiture shall be less than one hundred dollars ($100) per month.

(c) Any action of the board of directors or the association may be appealed to the commissioner by any member insurer if the appeal is taken within 60 days of the final action being appealed. If a member company is appealing an assessment, the amount assessed shall be paid to the association and available to meet association obligations during the pendency of an appeal. If the appeal on the assessment is upheld, the amount paid in error or excess shall be returned to the member company. Any final action or order of the commissioner shall be subject to judicial review in a court of competent jurisdiction.

(d) The liquidator, rehabilitator, or conservator of any impaired insurer may notify all interested persons of the effect of this article.

SEC. 6. Section 1067.12 of the Insurance Code is amended to read:

1067.12. (a) Nothing in this article shall be construed to reduce the liability for unpaid assessments of the insureds of an impaired or insolvent insurer operating under a plan with assessment liability.

(b) Records shall be kept of all negotiations and meetings in which the association or its representatives are involved to discuss the activities of the association in carrying out its powers and duties under Section 1067.07. Records of the negotiations or meetings shall be made public only upon the termination of a liquidation, rehabilitation, or conservation proceeding involving the impaired or insolvent insurer, upon the termination of the impairment or insolvency of the insurer, or upon the order of a court of competent

jurisdiction. Nothing in this subdivision shall limit the duty of the association to render a report of its activities under Section 1067.13.

(c) For the purpose of carrying out its obligations under this article, the association shall be deemed to be a creditor of the impaired or insolvent insurer to the extent of assets attributable to covered policies reduced by any amounts to which the association is entitled as subrogee pursuant to Section 1067.07. Assets of the impaired or insolvent insurer attributable to covered policies shall be used to continue all covered policies and pay all contractual obligations of the impaired or insolvent insurer as required by this article. Assets attributable to covered policies, as used in this subdivision, are that proportion of the assets which the reserves that should have been established for such policies bear to the reserves that should have been established for all policies of insurance written by the impaired or insolvent insurer.

(d) (1) Prior to the termination of any liquidation, rehabilitation, or conservation proceeding, the court may take into consideration the contributions of the respective parties, including the association, the shareholders, and policyowners of the insolvent insurer, and any other party with a bona fide interest, in making an equitable distribution of the ownership rights of the insolvent insurer. In the determination, consideration shall be given to the welfare of the policyholders of the continuing or successor insurer.

(2) No distribution to stockholders, if any, of an impaired or insolvent insurer shall be made until and unless the total amount of valid claims of the association with interest thereon for funds expended in carrying out its powers and duties under Section 1067.07 with respect to the insurer have been fully recovered by the association.

(e) (1) If an order for liquidation or rehabilitation of an insurer domiciled in this state has been entered, the receiver appointed under the order shall have a right to recover on behalf of the insurer, from any affiliate that controlled it, the amount of distributions, other than stock dividends paid by the insurer on its capital stock, made at any time during the five years preceding the petition for liquidation or rehabilitation subject to the limitations of paragraphs (2) to (4), inclusive.

(2) No such distribution shall be recoverable if the insurer shows that when paid the distribution was lawful and reasonable, and that the insurer did not know and could not reasonably have known that the distribution might adversely affect the ability of the insurer to fulfill its contractual obligations.

(3) Any person who was an affiliate that controlled the insurer at the time the distributions were paid shall be liable up to the amount of distributions he or she received. Any person who was an affiliate that controlled the insurer at the time the distributions were declared, shall be liable up to the amount of distributions he or she would have received if they had been paid immediately. If two or more persons are liable with respect to the same distributions, they

shall be jointly and severally liable.

(4) The maximum amount recoverable under this subdivision shall be the amount needed in excess of all other available assets of the insolvent insurer to pay the contractual obligations of the insolvent insurer.

(5) If any person liable under paragraph (3) is insolvent, all its affiliates that controlled it at the time the distribution was paid, shall be jointly and severally liable for any resulting deficiency in the amount recovered from the insolvent affiliate.

SEC. 7. Section 1067.17 of the Insurance Code is amended to read:

1067.17. (a) No person, including an insurer, agent, or affiliate of an insurer shall make, publish, disseminate, circulate, or place before the public, or cause directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in any newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio station or television station, or in any other way, any advertisement, announcement, or statement, written or oral, which uses the existence of the California Life Insurance Guaranty Association for the purpose of sales, solicitation, or inducement to purchase any form of insurance covered by the California Life Insurance Guaranty Association Act. Provided, however, that this section shall not apply to the California Life Insurance Guaranty Association or any other entity which does not sell or solicit insurance.

(b) Within 180 days of the effective date of this article, the association shall prepare a summary document describing the general purposes and current limitations of the article and complying with subdivision (c). This document shall be submitted to the commissioner for approval. Sixty days after receiving approval, no insurer may deliver a policy or contract described in paragraph (1) of subdivision (b) of Section 1067.02 to a policyholder or contractholder unless the document is delivered to the policy or contract holder prior to or at the time of delivery of the policy or contract except if subdivision (d) applies. The document should also be available upon request by a policyholder. The distribution, delivery, or contents or interpretation of this document shall not mean that either the policy or the contract or the holder thereof would be covered in the event of the impairment or insolvency of a member insurer. The description document shall be revised by the association as amendments to the article may require. Failure to receive this document does not give the policyholder, contractholder, certificate holder, or insured any greater rights than those stated in this article.

(c) The document prepared under subdivision (b) shall contain a clear and conspicuous disclaimer on its face. The commissioner shall promulgate a rule establishing the form and content of the disclaimer. The disclaimer shall do all of the following:

(1) State the name and address of the life insurance guaranty

association and insurance department.

(2) Prominently warn the policyholder or contractholder that the California Life Insurance Guaranty Association may not cover the policy or, if coverage is available, it will be subject to substantial limitations and exclusions and conditioned on continued residence in the state.

(3) State that the insurer and its agents are prohibited by law from using the existence of the California Life Insurance Guaranty Association for the purpose of sales, solicitation, or inducement to purchase any form of insurance.

(4) Emphasize that the policyholder or contractholder should not rely on coverage under the California Life Insurance Guaranty Association when selecting an insurer.

(5) Provide other information as directed by the commissioner.

(d) No insurer or agent may deliver a policy or contract described in paragraph (1) of subdivision (b) of Section 1067.02, and excluded under subparagraph (A) of paragraph (2) of subdivision (b) of Section 1067.02 from coverage under this article unless the insurer or agent, prior to or at the time of delivery, gives the policyholder or contractholder a separate written notice which clearly and conspicuously discloses that the policy or contract is not covered by the California Life Insurance Guaranty Association. The commissioner shall by rule specify the form and content of the notice.

SEC. 8. Article 15.5 (commencing with Section 1077) is added to Chapter 1 of Part 2 of Division 1 of the Insurance Code, to read:

Article 15.5. Administrative Supervision

1077. As used in this article:

(a) "Insurer" means and includes every person engaged as indemnitor, surety, or contractor in the business of entering into contracts of life or disability insurance or of annuities.

(b) "Exceeded its powers" means any of the following conditions:

(1) The insurer has refused to permit examination of its books, papers, accounts, records, or affairs by the commissioner, his or her deputies, employees, or duly commissioned examiners.

(2) A domestic insurer has unlawfully removed from this state books, papers, accounts, or records necessary for an examination of the insurer.

(3) The insurer has failed to promptly comply with the applicable financial reporting statutes or rules and departmental requests relating thereto.

(4) The insurer has neglected or refused to observe an order of the commissioner to make good, within the time prescribed by law, any prohibited deficiency in its capital, capital stock, or surplus.

(5) The insurer is continuing to transact insurance or write business after its license has been revoked or suspended by the commissioner.

(6) The insurer, by contract or otherwise, has unlawfully, or has in violation of an order of the commissioner, or has without first having obtained written approval of the commissioner, if approval is required by law, done any of the following:

(A) Totally reinsured its entire outstanding business.

(B) Merged or consolidated substantially its entire property or business with another insurer.

(7) The insurer engaged in any transaction in which it is not authorized to engage under the laws of this state.

(8) The insurer refused to comply with a lawful order of the commissioner.

(c) "Consent" means agreement to administrative supervision by the insurer.

1077.1. The provisions of the article shall apply to all of the following:

(a) All domestic life or disability insurers.

(b) Any other life or disability insurer doing business in this state whose state of domicile has asked the commissioner to apply the provisions of this article as regards that insurer.

1077.2. (a) An insurer may be subject to administrative supervision by the commissioner if, upon examination or at any other time it appears in the commissioner's discretion that any of the following applies:

(1) The insurer's condition renders the continuance of its business hazardous to the public or to its insureds.

(2) The insurer appears to have exceeded its powers granted under its certificate of authority and applicable law.

(3) The insurer has failed to comply with the applicable provisions of the Insurance Code.

(4) The business of the insurer is being conducted fraudulently.

(5) The insurer gives its consent.

(b) If the commissioner determines that the conditions set forth in subdivision (a) exist, the commissioner shall do all of the following:

(1) Notify the insurer of his or her determination.

(2) Furnish to the insurer a written list of the requirements to abate this determination.

(3) Notify the insurer that it is under the supervision of the commissioner and that the commissioner is applying and effectuating the provisions of the article. The action by the commissioner shall be subject to review pursuant to Section 12940.

(c) If placed under administrative supervision, the insurer shall have 60 days, or another period of time as designated by the commissioner, to comply with the requirements of the commissioner subject to the provisions of this article.

(d) If it is determined after notice and hearing that the conditions giving rise to the supervision still exist at the end of the supervision period specified above, the commissioner may extend the period.

(e) If it is determined that none of the conditions giving rise to the supervision exist, the commissioner shall release the insurer from

supervision.

1077.3. (a) Notwithstanding any other provision of law, and except as set forth in this section, proceedings, hearings, notices, correspondence, reports, records, and other information in the possession of the commissioner or the department relating to the supervision of any insurer are confidential except as provided by this section.

(b) The personnel of the department shall have access to these proceedings, hearings, notices, correspondence, reports, records, or information as permitted by the commissioner.

(c) The commissioner may open the proceedings or hearings or disclose the notices, correspondence, reports, records, or information to a department, agency, or instrumentality of this or another state of the United States if the commissioner determines that the disclosure is necessary or proper for the enforcement of the laws of this or another state of the United States.

(d) The commissioner may open the proceedings or hearings or make public the notices, correspondence, reports, records, or other information if the commissioner deems that it is in the best interest of the public or in the best interest of the insurer, its insureds, creditors, or the general public.

(e) This section does not apply to hearings, notices, correspondence, reports, records, or other information obtained upon the appointment of a receiver for the insurer by a court of competent jurisdiction.

1077.4. During the period of supervision, the commissioner or his or her designated appointee shall serve as the administrative supervisor. The commissioner may provide that the insurer may not do any of the following things during the period of supervision, without the prior approval of the commissioner or his or her appointed supervisor:

(a) Dispose of, convey, or encumber any of its assets or its business in force.

(b) Withdraw any of its bank accounts.

(c) Lend any of its funds.

(d) Invest any of its funds.

(e) Transfer any of its property.

(f) Incur any debt, obligation, or liability.

(g) Merge or consolidate with another company.

(h) Approve new premiums or renew any policies.

(i) Enter into any new reinsurance contract or treaty.

(j) Terminate, surrender, forfeit, convert, or lapse any insurance policy, certificate, or contract, except for nonpayment of premiums due.

(k) Release, pay, or refund premium deposits, accrued cash, or loan values, unearned premiums, or other reserves on any insurance policy, certificate, or contract.

(*l*) Make any material change in management.

(m) Increase salaries and benefits of officers or directors or the

preferential payment of bonuses, dividends, or other payments deemed preferential.

1077.5. During the period of supervision the insurer may contest an action taken or proposed to be taken by the supervisor specifying the manner wherein the action being complained of would not result in improving the condition of the insurer by requesting reconsideration by the commissioner. Denial of the insurer's request upon reconsideration entitles the insurer to seek judicial review under Section 12940.

1077.6. Nothing contained in this article shall preclude the commissioner from initiating judicial proceedings to place an insurer in conservation, rehabilitation, or liquidation proceedings or other delinquency proceedings, however designated under the laws of this state, regardless of whether the commissioner has previously initiated administrative supervision proceedings under this article against the insurer.

1077.7. The commissioner may adopt reasonable rules necessary for the implementation of this article.

1077.8. Notwithstanding any other provision of law, the commissioner may meet with a supervisor appointed under this article and with the attorney or other representative of the supervisor, without the presence of any other person, at the time of any proceedings or during the pendency of any proceeding held under authority of this article to carry out the commissioner's duties under this article or for the supervisor to carry out his or her duties under this article.

1077.9. There shall be no liability on the part of, and no cause of action of any nature shall arise against, the commissioner or the department or its employees or agents for any action taken by them in the performance of their powers and duties under this article.

1077.95. The authority granted pursuant to this article is in addition to, and not in lieu of, any other provision of this code.

CHAPTER 987

An act to amend and repeal Section 16120.1 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 16120.1 of the Welfare and Institutions Code, as added by Section 2 of Chapter 1376 of the Statutes of 1989, is amended to read:

16120.1. Upon the authorization of the licensed adoption agency or, where appropriate, the department, the county responsible for

providing adoption assistance program payments shall directly reimburse eligible individuals for reasonable nonrecurring expenses, as defined by the department, incurred as a result of the adoption of a special needs child. The state shall provide payment to the county for the reimbursement. Reimbursements shall conform to the eligibility criteria and claiming procedures established by the department and shall be subject to the following conditions:

(a) The amount of the payment shall be determined through agreement between the adopting parent or parents and the adoption agency. The agreement shall indicate the nature and the amount of the nonrecurring expenses to be paid. Payments shall be limited to an amount not to exceed four hundred dollars ($400) for each special needs placement.

(b) There shall be no income eligibility requirement for an adoptive parent or adoptive parents in determining whether payments for nonrecurring expenses shall be made.

(c) Reimbursement for nonrecurring expenses shall be limited to costs incurred by or on behalf of an adoptive parent or adoptive parents which are not reimbursed from other sources. No payments shall be made under this section if the federal program for reimbursement of nonrecurring expenses for the adoption of special needs children pursuant to Section 673 of Title 42 of the United States Code is terminated.

(d) Reimbursement for nonrecurring expenses shall be in addition to any adoption expenses paid pursuant to Section 16121 and shall not be included in the computation of maximum benefits for which the adoptive family is eligible pursuant to Section 16121.

(e) This section shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1994, deletes or extends that date.

SEC. 2. Section 16120.1 of the Welfare and Institutions Code, as added by Section 2.5 of Chapter 1376 of the Statutes of 1989, is amended to read:

16120.1. Upon the authorization of the licensed adoption agency or, where appropriate, the department, the county responsible for providing adoption assistance program payments shall directly reimburse eligible individuals for reasonable nonrecurring expenses, as defined by the department, incurred as a result of the adoption of a special needs child. The state shall provide payment to the county for the reimbursement. Reimbursements shall conform to the eligibility criteria and claiming procedures established by the department and shall be subject to the following conditions:

(a) The amount of the payment shall be determined through agreement between the adopting parent or parents and the adoption agency. The agreement shall indicate the nature and the amount of the nonrecurring expenses to be paid.

(b) There shall be no income eligibility requirement for an adoptive parent or adoptive parents in determining whether payments for nonrecurring expenses shall be made.

(c) Reimbursement for nonrecurring expenses shall be limited to costs incurred by or on behalf of an adoptive parent or adoptive parents which are not reimbursed from other sources. No payments shall be made under this section if the federal program for reimbursement of nonrecurring expenses for the adoption of special needs children pursuant to Section 673 of Title 42 of the United States Code is terminated.

(d) Reimbursement for nonrecurring expenses shall be in addition to any adoption expenses paid pursuant to Section 16121 and shall not be included in the computation of maximum benefits for which the adoptive family is eligible pursuant to Section 16121.

(e) This section shall become operative on January 1, 1994.

SEC. 3. (a) The State Department of Social Services shall assess the adequacy of the four hundred dollar ($400) maximum payment for reimbursement for nonrecurring adoption expenses incurred in the adoption of a special needs child, as provided under Section 16120.1 of the Welfare and Institutions Code.

(b) By March 1, 1993, the State Department of Social Services shall recommend to the appropriate committees of the Legislature on whether the four hundred dollar ($400) maximum payment should be increased to encourage more adoptions of special needs children.

CHAPTER 988

An act to amend Section 69510.5 of the Government Code, relating to courts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 13, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 69510.5 of the Government Code is amended to read:

69510.5. Notwithstanding any other provision of law, a majority of the judges of the Orange County Superior Court may, upon a finding that no suitable additional facilities exist in the county seat or where municipal courts hold sessions, order sessions of the court to be held at any location within the county.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that

the act takes effect pursuant to the California Constitution.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to allow the holding of family law sessions of the Orange County Superior Court, as soon as possible, in the facilities now available, it is necessary that this act take effect immediately.

CHAPTER 989

An act to amend Section 99313.6 of the Public Utilities Code, relating to transit.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 99313.6 of the Public Utilities Code, as amended by Chapter 35 of the Statutes of 1991, is amended to read:

99313.6. (a) Except as provided in subdivision (b), each transportation planning agency and county transportation commission, and the San Diego Metropolitan Transit Development Board, shall create a state transit assistance fund and deposit therein the funds allocated to it pursuant to Sections 99313 and 99314 for allocations to operators, and to claimants for the purposes specified in Section 99275 and in subdivisions (b), (c), (d), and (e) of Section 99400, within the area on which its allocation was determined.

(b) From funds allocated to it pursuant to Sections 99313 and 99314, the Los Angeles County Transportation Commission may allocate funds to itself for the planning, design, and construction of an exclusive public mass transit guideway system.

(c) An allocation of funds from a state transit assistance fund for a transit capital project may be used for the payment of the principal of, and interest on, equipment trust certificates, bonded or other indebtedness, or in accomplishment of a defeasance of any outstanding revenue bond indenture issued for that project.

SEC. 2. Section 99313.6 of the Public Utilities Code, as amended by Chapter 35 of the Statutes of 1991, is amended to read:

99313.6. (a) Except as provided in subdivisions (b) and (c), each transportation planning agency and county transportation commission, and the San Diego Metropolitan Transit Development Board, shall create a state transit assistance fund and deposit therein the funds allocated to it pursuant to Sections 99313 and 99314 for allocations to operators, and to claimants for the purposes specified in Section 99275 and in subdivisions (b), (c), (d), and (e) of Section 99400, within the area on which its allocation was determined.

(b) From funds allocated to it pursuant to Sections 99313 and 99314, the Los Angeles County Transportation Commission may allocate funds to itself for the planning, design, and construction of an exclusive public mass transit guideway system.

(c) Each transportation planning agency and county transportation commission, and the San Diego Metropolitan Transit Development Board, may expend not more than 2 percent, or not more than 1 percent if the population within its area of jurisdiction is 1,000,000 or more, of the total funds allocated to it pursuant to Sections 99313 and 99314 to undertake a telecommuting demonstration project pursuant to Section 99313.8. Funds made available pursuant to this subdivision shall not be used to supplant funding from any other sources for telecommuting projects.

(d) An allocation of funds from a state transit assistance fund for a transit capital project may be used for the payment of the principal of, and interest on, equipment trust certificates, bonded or other indebtedness, or in accomplishment of a defeasance of any outstanding revenue bond indenture issued for that project.

SEC. 3. Section 2 of this bill incorporates amendments to Section 99313.6 of the Public Utilities Code proposed by both this bill and AB 993. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 99313.6 of the Public Utilities Code, and (3) this bill is enacted after AB 993, in which case Section 1 of this bill shall not become operative.

CHAPTER 990

An act to amend Sections 13353.4, 23171, 23176, and 23186 of the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 13353.4 of the Vehicle Code is amended to read:

13353.4. (a) Except as provided in subdivision (b) of Section 13353.6 or Section 13353.7, the driving privilege shall not be restored, and no restricted or hardship permit to operate a motor vehicle shall be issued, to a person during the suspension or revocation period specified in Section 13353 or 13353.3.

(b) The privilege to operate a motor vehicle shall not be restored after a suspension or revocation pursuant to Section 13352, 13353, or 13353.2 until all applicable reinstatement fees, including the fees prescribed in Section 14905, have been paid and the person gives proof of financial responsibility as defined in Section 16430 to the

department.

(c) The privilege to operate a motor vehicle shall not be restored after a suspension or revocation pursuant to Section 13352 until the person gives proof satisfactory to the department of completion of a program approved pursuant to Section 23161 or completion of a program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code for any other person whose driving privilege is suspended or revoked pursuant to Section 13352.

(d) For purposes of this section, completion of a program is the satisfactory completion of all program service requirements approved pursuant to program licensure, and any other court-imposed conditions, as evidenced by a certificate of completion issued by the licensed program.

SEC. 2. Section 23171 of the Vehicle Code is amended to read:

23171. (a) If the court grants probation to any person punished under Section 23170, in addition to the provisions of Section 23206 and any other terms and conditions imposed by the court, the court shall impose as conditions of probation that the person be confined in the county jail for at least 120 days but not more than one year and pay a fine of at least three hundred ninety dollars ($390) but not more than one thousand dollars ($1,000). The person's privilege to operate a motor vehicle shall be revoked by the Department of Motor Vehicles pursuant to paragraph (5) of subdivision (a) of Section 13352.

(b) In addition to subdivision (a), if the court grants probation to any person punished under Section 23170, the court, may, in its discretion, order as a condition of probation that the person participate, for at least 30 months subsequent to the underlying conviction and in a manner satisfactory to the court, in a program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code. In lieu of the minimum term of imprisonment specified in subdivision (a), the court shall impose as a condition of probation under this subdivision that the person be confined in the county jail for at least 30 days but not more than one year. The court shall not order the treatment prescribed by this subdivision unless the person makes a specific request and shows good cause for the order, whether or not the person has previously completed a treatment program pursuant to paragraph (4) of subdivision (b) of Section 23166 or paragraph (4) of subdivision (b) of Section 23186. A person ordered to treatment pursuant to this subdivision shall apply to the court or to a board of review, as designated by the court, at the conclusion of the program to obtain the court's order of satisfaction. Only upon the granting of that order of satisfaction by the court may the program issue its certificate of successful completion and report the completion to the Department of Motor Vehicles. A failure to obtain an order of satisfaction at the conclusion of the program is a violation of probation. In order to enable all required persons to participate, each

person shall pay the program costs commensurate with the person's ability to pay as determined pursuant to Section 11837.4 of the Health and Safety Code. No condition of probation required pursuant to this subdivision is a basis for reducing any other probation requirement in this section or Section 23206 or for avoiding the mandatory license revocation provisions of paragraph (5) of subdivision (a) of Section 13352.

(c) In addition to the provisions of Section 23206 and subdivision (a), if the court grants probation to any person punished under Section 23170 who has not previously completed a treatment program pursuant to paragraph (4) of subdivision (b) of Section 23166 or paragraph (4) of subdivision (b) of Section 23186, and unless the person is ordered to participate in and complete a program under subdivision (b), the court shall impose as a condition of probation that the person participate, for at least 18 months and in a manner satisfactory to the court, in a program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code, as designated by the court. Any person who has previously completed a 12-month or 18-month program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code shall not be eligible for referral pursuant to this subdivision unless a 30-month licensed program is not available for referral in the county of the person's residence or employment. The program shall provide for persons who cannot afford the program fee pursuant to paragraph (2) of subdivision (a) of Section 11837.4 of the Health and Safety Code in order to enable those persons to participate. No condition of probation required pursuant to this subdivision is a basis for reducing any other probation requirement in this section or Section 23206 or for avoiding the mandatory license revocation provisions of paragraph (5) of subdivision (a) of Section 13352.

SEC. 3. Section 23176 of the Vehicle Code is amended to read:

23176. (a) If the court grants probation to any person punished under Section 23175, in addition to the provisions of Section 23206 and any other terms and conditions imposed by the court, the court shall impose as conditions of probation that the person be confined in the county jail for at least 180 days but not more than one year and pay a fine of at least three hundred ninety dollars ($390) but not more than one thousand dollars ($1,000). The person's privilege to operate a motor vehicle shall be revoked by the Department of Motor Vehicles pursuant to paragraph (7) of subdivision (a) of Section 13352.

(b) In addition to subdivision (a), if the court grants probation to any person punished under Section 23175, the court may, in its discretion, order as a condition of probation that the person participate, for at least 30 months subsequent to the underlying conviction and in a manner satisfactory to the court, in a program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code. In lieu of the

minimum term of imprisonment in subdivision (a), the court shall impose as a condition of probation under this subdivision that the person be confined in the county jail for at least 30 days but not more than one year. The court shall not order the treatment prescribed by this subdivision unless the person makes a specific request and shows good cause for the order, whether or not the person has previously completed a treatment program pursuant to paragraph (4) of subdivision (b) of Section 23166 or paragraph (4) of subdivision (b) of Section 23186. A person ordered to treatment pursuant to this subdivision shall apply to the court or to a board of review, as designated by the court, at the conclusion of the program to obtain the court's order of satisfaction. Only upon the granting of that order of satisfaction by the court may the program issue its certificate of successful completion and report the completion to the Department of Motor Vehicles. A failure to obtain an order of satisfaction at the conclusion of the program is a violation of probation. In order to enable all required persons to participate, each person shall pay the program costs commensurate with the person's ability to pay as determined pursuant to Section 11837.4 of the Health and Safety Code. No condition of probation required pursuant to this subdivision is a basis for reducing any other probation requirement in this section or Section 23206 or for avoiding the mandatory license revocation provisions of paragraph (7) of subdivision (a) of Section 13352.

(c) In addition to the provisions of Section 23206 and subdivision (a), if the court grants probation to any person punished under Section 23175 who has not previously completed a treatment program pursuant to paragraph (4) of subdivision (b) of Section 23166 or paragraph (4) of subdivision (b) of Section 23186, and unless the person is ordered to participate in, and complete, a program under subdivision (b), the court shall impose as a condition of probation that the person participate, for at least 18 months and in a manner satisfactory to the court, in a program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code, as designated by the court. Any person who has previously completed a 12-month or 18-month program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code shall not be eligible for referral pursuant to this subdivision unless a 30-month licensed program is not available for referral in the county of the person's residence or employment. No condition of probation required pursuant to this subdivision is a basis for reducing any other probation requirement in this section or Section 23206 or for avoiding the mandatory license revocation provisions of paragraph (7) of subdivision (a) of Section 13352.

SEC. 4. Section 23186 of the Vehicle Code is amended to read:

23186. If the court grants probation to any person punished under Section 23185, in addition to the provisions of Section 23206 and any other terms and conditions imposed by the court, the court

shall impose as conditions of probation that the person be subject to all of the provisions of either subdivision (a) or (b), as follows:

(a) Be confined in the county jail for at least 120 days and pay a fine of at least three hundred ninety dollars ($390) but not more than five thousand dollars ($5,000). The person's privilege to operate a motor vehicle shall be revoked by the Department of Motor Vehicles pursuant to paragraph (4) of subdivision (a) of Section 13352.

(b) All of the following:

(1) Be confined in the county jail for at least 30 days but not more than one year.

(2) Pay a fine of at least three hundred ninety dollars ($390) but not more than one thousand dollars ($1,000).

(3) Pursuant to Section 13352.5, have the privilege to operate a motor vehicle be suspended for one year by the Department of Motor Vehicles and, after that one-year period, if the person gives proof of ability to respond in damages as defined in Section 16430 to the Department of Motor Vehicles, have the privilege restricted by the Department of Motor Vehicles for two additional years to necessary travel to and from that person's place of employment, and to and from the treatment program described in paragraph (4) and, if driving a motor vehicle is necessary to perform the duties of the person's employment, restricted to driving in that person's scope of employment. The Department of Motor Vehicles shall not revoke the person's privilege to operate a motor vehicle under Section 13352, as provided in Section 13352.5, unless the offense occurred in a vehicle requiring a driver with a class 1 or class 2 driver's license or with a certificate specified in Section 12804.1.

(4) Either of the following:

(A) Participate, for at least 18 months subsequent to the underlying conviction and in a manner satisfactory to the court, in a program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code, if available in the county of the person's residence or employment, as designated by the court. The program shall provide for persons who cannot afford the program fee pursuant to paragraph (2) of subdivision (a) of Section 11837.4 of the Health and Safety Code in order to enable those persons to participate.

(B) Participate, for at least 30 months subsequent to the underlying conviction and in a manner satisfactory to the court, in a program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code, if available in the county of the person's residence or employment. A person ordered to treatment pursuant to this subparagraph shall apply to the court or to a board of review, as designated by the court, at the conclusion of the program to obtain the court's order of satisfaction. Only upon the granting of that order of satisfaction by the court may the program issue its certificate of completion and report the completion to the Department of Motor Vehicles. A failure to obtain an order of satisfaction at the conclusion

of the program is a violation of probation. In order to enable all required persons to participate, each person shall pay the program costs commensurate with the person's ability to pay as determined pursuant to Section 11837.4 of the Health and Safety Code. No condition of probation required pursuant to this subparagraph is a basis for reducing any other probation requirement or for avoiding the mandatory license revocation provisions of paragraph (5) of subdivision (a) of Section 13352.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Many of the Vehicle Code sentencing provisions were not changed to reflect the provisions of Chapter 803 of the Statutes of 1989, and are causing confusion for courts when rendering sentence and for the Department of Motor Vehicles when assessing the duration of driver's license suspensions and revocations. In order to clarify this situation at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 991

An act to add Section 10320.5 to the Public Contract Code, relating to public contracts.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 10320.5 is added to the Public Contract Code, to read:

10320.5. (a) Commencing January 1, 1992, all state agencies subject to this chapter which enter into installment purchase or lease-purchase contracts shall make periodic payments, which shall include interest computed from a date no later than the acceptance date of the equipment purchased pursuant to the contract. However, if the contract requires an acceptance test, interest shall be computed from a date no later than the first day of the successful acceptance test period. Unless otherwise provided for in the contract, periodic payments shall commence upon acceptance of the equipment or, if the contract requires an acceptance test, as of the first day of the successful acceptance test period. Late charges shall accrue for any periodic payment not made to the contractor or its assigns from either the payment date provided in the contract or 60 days following the receipt of a valid invoice for the periodic payment, whichever is later. However, in the event any invoice is received prior to the equipment acceptance date, the receipt date of the

invoice shall be construed to be the equipment acceptance date. Late charges under this section shall be assessed using the interest rate as specified in Section 926.17 of the Government Code.

(b) The Department of General Services shall be authorized to refinance installment purchase contracts when, in the determination of the department, it is financially beneficial to the state to do so.

CHAPTER 992

An act to amend Section 17200 of, to add Part 8 (commencing with Section 19000) to Division 9 of, and to repeal Section 18201 of, the Probate Code, relating to trusts.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 17200 of the Probate Code is amended to read:

17200. (a) Except as provided in Section 15800, a trustee or beneficiary of a trust may petition the court under this chapter concerning the internal affairs of the trust or to determine the existence of the trust.

(b) Proceedings concerning the internal affairs of a trust include, but are not limited to, proceedings for any of the following purposes:

(1) Determining questions of construction of a trust instrument.

(2) Determining the existence or nonexistence of any immunity, power, privilege, duty, or right.

(3) Determining the validity of a trust provision.

(4) Ascertaining beneficiaries and determining to whom property shall pass or be delivered upon final or partial termination of the trust, to the extent the determination is not made by the trust instrument.

(5) Settling the accounts and passing upon the acts of the trustee, including the exercise of discretionary powers.

(6) Instructing the trustee.

(7) Compelling the trustee to report information about the trust or account to the beneficiary, if (A) the trustee has failed to submit a requested report or account within 60 days after written request of the beneficiary and (B) no report or account has been made within six months preceding the request.

(8) Granting powers to the trustee.

(9) Fixing or allowing payment of the trustee's compensation or reviewing the reasonableness of the trustee's compensation.

(10) Appointing or removing a trustee.

(11) Accepting the resignation of a trustee.

(12) Compelling redress of a breach of the trust by any available

remedy.

(13) Approving or directing the modification or termination of the trust.

(14) Approving or directing the combination or division of trusts.

(15) Amending or conforming the trust instrument in the manner required to qualify a decedent's estate for the charitable estate tax deduction under federal law, including the addition of mandatory governing instrument requirements for a charitable remainder trust as required by final regulations and rulings of the United States Internal Revenue Service, in any case in which all parties interested in the trust have submitted written agreement to the proposed changes or written disclaimer of interest.

(16) Authorizing or directing transfer of a trust or trust property to or from another jurisdiction.

(17) Directing transfer of a testamentary trust subject to continuing court jurisdiction from one county to another.

(18) Approving removal of a testamentary trust from continuing court jurisdiction.

(19) Reforming or excusing compliance with the governing instrument of an organization pursuant to Section 16105.

(20) Determining the liability of the trust for any debts of a deceased settlor. However, nothing in this paragraph shall provide standing to bring an action concerning the internal affairs of the trust to a person whose only claim to the assets of the decedent is as a creditor.

SEC. 2. Section 18201 of the Probate Code is repealed.

SEC. 3. Part 8 (commencing with Section 19000) is added to Division 9 of the Probate Code, to read:

PART 8. PAYMENT OF CLAIMS, DEBTS, AND EXPENSES FROM REVOCABLE TRUST OF DECEASED SETTLOR

CHAPTER 1. GENERAL PROVISIONS

19000. As used in this part:

(a) "Claim" means a demand for payment for any of the following, whether due, not due, or contingent, and whether liquidated or unliquidated:

(1) Liability of the deceased settlor, whether arising in contract, tort, or otherwise.

(2) Liability for taxes incurred before the deceased settlor's death, whether assessed before or after the deceased settlor's death, other than property taxes and assessments secured by real property liens.

(3) Liability for the funeral expenses of the deceased settlor.

(b) "Claim" does not include a dispute regarding title to specific property alleged to be included in the trust estate.

(c) "Claimant" means a person who may have a claim, as defined in subdivision (a), against trust property and who has filed a timely

claim pursuant to Section 19100.

(d) "Trust" means a trust described in Section 18200, or, if a portion of a trust, that portion that remained subject to the power of revocation at the deceased settlor's death.

(e) "Deceased settlor" means a deceased person who, at the time of his or her death, held the power to revoke the trust in whole or in part.

(f) "Debts" means all claims, as defined in subdivision (a), all expenses of administration, and all other proper charges against the trust estate, including taxes.

19001. (a) Upon the death of a settlor, the property of the deceased settlor that was subject to the power of revocation at the time of the settlor's death is subject to the claims of creditors of the deceased settlor's estate and to the expenses of administration of the estate to the extent that the deceased settlor's estate is inadequate to satisfy those claims and expenses.

(b) The deceased settlor, by appropriate direction in the trust instrument, may direct the priority of sources of payment of debts among subtrusts or other gifts established by the trust at the deceased settlor's death. Notwithstanding this subdivision, no direction by the settlor shall alter the priority of payment, from whatever source, of the matters set forth in Section 11420 which shall be applied to the trust as it applies to a probate estate.

19002. (a) Except as expressly provided, this part shall not be construed to affect the right of any creditor to recover from any revocable trust established by the deceased settlor.

(b) Nothing in this part shall be construed as a construction or alteration of any claims procedure set forth under Part 4 (commencing with Section 9000) of Division 7.

19003. (a) At any time following the death of the settlor, and during the time that there has been no filing of a petition to administer the estate of the deceased settlor in this state of which the trustee has actual knowledge, the trustee may file with the court a proposed notice to creditors. Upon the court's assignment of a proceeding number to the proposed notice, the trustee shall publish and serve notice to creditors of the deceased settlor in the form and within the time prescribed in Chapters 3 (commencing with Section 19040) and 4 (commencing with Section 19050). That action shall constitute notice to creditors of the requirements of this part.

(b) The filing shall be made with the superior court for the county in this state where the deceased settlor resided at the time of death, or if none, in any county in this state in which trust property was located at the time of the settlor's death, or if none, in the county in this state that was the principal place of administration of the trust at the time of the settlor's death.

(c) Nothing in subdivision (a) affects a notice or request to a public entity required by Chapter 7 (commencing with Section 19200).

19004. If the trustee files, publishes, and serves notice as set forth

in Section 19003, then:

(a) All claims against the trust shall be filed in the manner and within the time provided in this part.

(b) A claim that is not filed as provided in this part is barred from collection from trust assets.

(c) The holder of a claim may not maintain an action on the claim against the trust unless the claim is first filed as provided in this part.

19005. The trustee may at any time pay, reject, or contest any claim against the deceased settlor or settle any claim by compromise, arbitration, or otherwise. The trustee may also file a petition in the manner set forth in Chapter 2 (commencing with Section 19020) to settle any claim.

19006. (a) If a trustee of a trust established by the deceased settlor files, publishes, and serves notice as provided in Section 19003 the protection from creditors afforded that trustee and trust shall also be afforded to any other trusts established by the deceased settlor and the trustees and beneficiaries of those trusts.

(b) If the personal representative of the deceased settlor's estate has published notice under Section 8120 and given notice of administration of the estate of the deceased settlor under Chapter 2 (commencing with Section 9050) of Part 4 of Division 7, the protection from creditors afforded the personal representative of the deceased settlor's estate shall be afforded to the trustee and to the beneficiaries of the trust.

(c) In the event that, following the filing and publication of the notice set forth in Section 19003, there shall be commenced any proceeding under which a notice pursuant to Section 8120 is required to be published, then the trustee shall have a right of collection against that estate to recover the amount of any debts paid from trust assets that would otherwise have been satisfied (whether by law or by direction in the deceased settlor's will or trust) by the property subject to probate proceedings.

19007. Nothing in this part shall determine the liability of any trust established by the deceased settlor as against any other trust established by that settlor, except to the extent that the trustee of the other trust shall file, publish, and serve the notice specified in Section 19003 and thereafter seek a determination of relative liability pursuant to Chapter 2 (commencing with Section 19020).

19008. If there is no proceeding to administer the estate of the deceased settlor, and if the trustee does not file a proposed notice to creditors pursuant to Section 19003 and does not publish notice to creditors pursuant to Chapter 3 (commencing with Section 19040), then the liability of the trust to any creditor of the deceased settlor shall be as otherwise provided by law.

19009. Nothing in this part shall be construed to permit or require disclosure of the existence of the trust or the contents of any of its provisions to any creditor or beneficiary except as that creditor or beneficiary may otherwise be entitled to that information.

19010. Nothing in this part imposes any duty on the trustee to

initiate the notice proceeding set forth in Section 19003, and the trustee is not liable for failure to initiate the proceeding under this part.

19011. (a) The Judicial Council may prescribe the form and contents of the petition, notice, claim form, and allowance or rejection form to be used pursuant to this part. The allowance or rejection form may be part of the claim form.

(b) Any claim form adopted by the Judicial Council shall inform the claimant that the claim must be filed with the court and a copy mailed or delivered to the trustee. The claim form shall include a proof of mailing or delivery of a copy of the claim to the trustee, which may be completed by the claimant.

19012. (a) This part applies to claims against any deceased settlor who dies on or after January 1, 1992.

(b) The applicable law in effect before January 1, 1992, continues to apply to claims against any deceased settlor who dies before January 1, 1992.

CHAPTER 2. PETITION FOR APPROVAL AND SETTLEMENT of CLAIMS AGAINST DECEASED SETTLOR

19020. At any time after the filing and first publication of notice pursuant to Chapter 3 (commencing with Section 19040), and after expiration of the time to file claims provided in that chapter, a trustee or beneficiary may petition the court under this chapter to approve either of the following:

(a) Allowance, compromise, or settlement of any claims that have not been rejected by the trustee under the procedure provided in this part and for which trust property may be liable.

(b) An allocation of any amounts due by reason of an action described in subdivision (a) to two or more trusts which may be liable for the claims.

19021. The petition shall be filed in that county as may be determined pursuant to Section 19003. In the event this action seeks approval of allocation to two or more trusts for which the notice proceeding in Section 19003 would prescribe superior courts for more than one county, the court located in the county so prescribed for the trustee initiating the proceeding under this chapter shall have jurisdiction.

19022. (a) A proceeding under this chapter is commenced by filing a verified petition stating facts showing that the petition is authorized under this chapter and the grounds of the petition.

(b) The petition shall set forth a description of the trust and the names of claimants with respect to which action is requested and a description of each claim, together with the requested determination by the court with respect to the claims, provided, however, that this section does not require the filing of a copy of the trust or disclosure of the beneficial interests of the trust. That petition shall also set forth the beneficiaries of the trust, those claimants

whose interest in the trust may be affected by the petition, and the trustees of any other trust to which an allocation of liability may be approved by the court pursuant to the petition.

(c) The clerk shall set the matter for hearing.

19023. At least 30 days before the time set for the hearing on the petition, the petitioner shall cause notice of the time and place of the hearing and a copy of the petition to be served on each of the claimants whose interests in the estate may be affected by the petition in the manner provided in Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure.

19024. At least 30 days before the time set for the hearing on the petition, the petitioner shall cause notice of the time and place of the hearing, together with a copy of the petition, to be mailed to each of the following persons who is not a petitioner:

(a) All trustees of the trust and of any other trusts to which an allocation of liability may be approved by the court pursuant to the petition.

(b) All beneficiaries affected.

(c) The personal representative of the deceased settlor's estate, if any is known to the trustee.

(d) The Attorney General, if the petition relates to a charitable trust subject to the jurisdiction of the Attorney General, unless the Attorney General waives notice.

19025. (a) If any claimant, beneficiary, or trustee fails timely to file a written pleading upon notice, then the case is at issue, notwithstanding the failure. The case may proceed on the petition and written statements filed by the time of the hearing, and no further pleadings by other persons are necessary. The claimant, beneficiary, or trustee who failed timely to file a written pleading upon notice may not participate further in the proceeding for the determination requested, and that claimant, beneficiary, or trustee shall be bound by the decision in the proceeding.

(b) The court's order, when final, shall be conclusive as to the liability of the trust property with respect to the claims at issue in the petition. In the event of a subsequent administration of the estate of the deceased settlor, that order shall be binding on the personal representative of the estate of the deceased settlor as well as all claimants and beneficiaries who had notice of the petition.

19026. The court may dismiss a petition if it appears that the proceeding is not reasonably necessary for the protection of the interests of the trustee or any beneficiary of the trust.

19027. (a) The court in its discretion may make any orders and take any other action necessary or proper to dispose of the matters presented by the petition.

(b) If the court determines that the assets of the trust estate are insufficient to pay all debts, then the court shall order payment in the manner specified by Section 11420.

19028. An appeal may be taken from the grant or denial of any final order made under this chapter.

19029. The court may, on its own motion or on request of a trustee or other person interested in the trust, appoint a guardian ad litem in accordance with Section 1003.

19030. In a case involving a charitable trust subject to the jurisdiction of the Attorney General, the Attorney General may petition under this chapter.

CHAPTER 3. PUBLICATION OF NOTICE

19040. (a) Publication of notice pursuant to this section shall be for at least 15 days. Three publications in a newspaper published once a week or more often, with at least five days intervening between the first and last publication dates, not counting the first and last publication dates as part of the five-day period, are sufficient. Notice shall be published in a newspaper of general circulation in the city, county, or city and county in this state where the deceased settlor resided at the time of death, or if none, in the city, county, or city and county in this state wherein trust property was located at the time of the settlor's death, or if none, in the city, county, or city and county in this state wherein the principal place of administration of the trust was located at the time of the settlor's death. If there is no newspaper of general circulation published in the applicable city, county, or city and county, notice shall be published in a newspaper of general circulation published in this state nearest to the applicable city, county, or city and county seat, and which is circulated within the applicable city, county, or city and county. If there is no such newspaper, notice shall be given in written or printed form, posted at three of the most public places within the community. For purposes of this section, "city" means a charter city as defined in Section 34101 of the Government Code or a general law city as defined in Section 34102 of the Government Code.

(b) The caption of the notice, the deceased settlor's name, and the name of the trustee shall be in at least 8-point type, the text of the notice shall be in at least 7-point type, and the notice shall state substantially as follows:

NOTICE TO CREDITORS

OF _____

#_____

SUPERIOR COURT OF CALIFORNIA

COUNTY OF _____

Notice is hereby given to the creditors and contingent creditors of the above-named decedent, that all persons having claims against the decedent are required to file them with the Superior Court, at

_____, and mail a copy to _____, as trustee of the trust dated _____ wherein the decedent was the settlor, at _____, within the later of four months after _____ (the date of the first publication of notice to creditors) or, if notice is mailed or personally delivered to you, 30 days after the date this notice is mailed or personally delivered to you. A claim form may be obtained from the court clerk. For your protection, you are encouraged to file your claim by certified mail, with return receipt requested.

_____

(name and address of trustee or attorney)

(c) An affidavit showing due publication of notice shall be filed with the clerk upon completion of the publication. The affidavit shall contain a copy of the notice, and state the date of its first publication.

19041. The Legislature finds and declares that to be most effective, notice to creditors should be published in compliance with the procedures specified in Section 19040. However, the Legislature recognizes the possibility that in unusual cases due to confusion over jurisdictional boundaries or oversights the notice may inadvertently be published in a newspaper which does not meet these requirements. Therefore, to prevent a minor error in publication from invalidating what would otherwise be a proper proceeding, the Legislature further finds and declares that notice published in a good faith attempt to comply with Section 19040 shall be sufficient to provide notice to creditors and establish jurisdiction if the court expressly finds that the notice was published in a newspaper of general circulation published within the city, county, or city and county and widely circulated within a true cross section of the community in which the deceased settlor resided or wherein the principal place of administration of the trust was located or the property was located in substantial compliance with Section 19040.

CHAPTER 4. ACTUAL NOTICE TO CREDITORS

19050. (a) If the trustee has knowledge of a creditor of the deceased settlor, the trustee shall give notice to the creditor, unless notice is not required pursuant to Section 19054. The notice shall be given as provided in Section 1215. For the purpose of this subdivision, a trustee has knowledge of a creditor of the deceased settlor if the trustee is aware that the creditor has demanded payment from the deceased settlor or the trust estate.

(b) The provision of notice under this chapter is in addition to the publication of notice under Section 19040.

19051. (a) Except as provided in subdivision (b) or (c), the notice shall be given within four months after the first publication of notice under Section 19040.

(b) If the trustee first has knowledge of a creditor less than 30 days before expiration of the time provided in subdivision (a), the notice shall be given within 30 days after the trustee first has knowledge of the creditor.

(c) If the trustee first has knowledge of a creditor after expiration of the time provided in subdivision (a), the notice shall be given within 30 days after the trustee first has knowledge of the creditor.

19052. The notice shall be in substantially the following form:

NOTICE TO CREDITORS

OF _____

#_____

SUPERIOR COURT OF CALIFORNIA

COUNTY OF _____

Notice is hereby given to the creditors and contingent creditors of the above-named decedent, that all persons having claims against the decedent are required to file them with the Superior Court, at _____, and mail or deliver a copy to _____, as trustee of the trust dated _____ wherein the decedent was the settlor, at _____, within the later of four months after _____ (the date of the first publication of notice to creditors) or, if notice is mailed or personally delivered to you, 30 days after the date this notice is mailed or personally delivered to you, or you must petition to file a late claim as provided in Section 19103 of the Probate Code. A claim form may be obtained from the court clerk. For your protection, you are encouraged to file your claim by certified mail, with return receipt requested.

(Date of mailing this notice if applicable)	(name and address of trustee or attorney)

19053. (a) If the trustee believes that notice to a particular creditor is or may be required by this chapter and gives notice based on that belief, the trustee is not liable to any person for giving the notice, whether or not required by this chapter.

(b) If the trustee fails to give notice required by this chapter, the trustee is not liable to any person for that failure, unless a creditor establishes all of the following:

(1) The failure was in bad faith.

(2) Neither the creditor nor the attorney representing the creditor in the matter had actual knowledge of the proceedings

under Chapter 1 (commencing with Section 19000) sooner than one year after publication of notice to creditors under Section 19040, and payment would have been made on the creditor's claim if the claim had been properly filed.

(3) Within 16 months after the first publication of notice under Section 19040, the creditor did both of the following:

(A) Filed a petition requesting that the court in which the proceedings under Chapter 1 (commencing with Section 19000) were initiated make an order determining the liability of the trustee under this subdivision.

(B) At least 30 days before the hearing on the petition, caused notice of the hearing and a copy of the petition to be served on the trustee in the manner provided in Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure.

(c) Nothing in this section affects the liability of the trust estate, if any, for the claim of a creditor, and the trustee is not liable to the extent the claim is paid out of the trust estate.

(d) Nothing in this chapter imposes a duty on the trustee to make a search for creditors of the deceased settlor.

19054. Notwithstanding Section 19050, the trustee need not give notice to a creditor even though the trustee has knowledge of the creditor if either of the following conditions is satisfied:

(a) The creditor has filed a claim as provided in this part.

(b) The creditor has demanded payment and the trustee elects to treat the demand as a claim under Section 19153.

CHAPTER 5. TIME FOR FILING CLAIMS

19100. (a) A claimant shall file a claim before expiration of the later of the following times:

(1) Four months after the first publication of notice to creditors under Section 19040.

(2) Thirty days after the date actual notice is mailed or personally delivered to the creditor, if notice is given within the time provided in subdivision (a) or (b) of Section 19051.

(b) Notwithstanding Section 19103, a reference in another statute to the time for filing a claim means the time provided in paragraph (1) of subdivision (a), unless the provision or context requires otherwise.

19101. A vacancy in the office of the trustee that occurs before expiration of the time for filing a claim does not extend the time.

19102. A claim that is filed before expiration of the time for filing the claim is timely even if acted on by the trustee or the court after expiration of the time for filing claims.

19103. (a) Upon petition by a claimant and upon giving notice of hearing in the manner and to the person set forth in Section 19024, the court may allow a claim to be filed after expiration of the time provided in Section 19100 if it appears that either of the following conditions are satisfied:

(1) Neither the claimant nor the attorney representing the claimant in the matter had actual knowledge of the proceeding under this part more than 15 days before expiration of the time provided in Section 19100, and the claimant's petition was filed within 30 days after either the claimant or the claimant's attorney had actual knowledge of the proceeding whichever occurred first.

(2) Neither the claimant nor the attorney representing the claimant in the matter had knowledge of the existence of the claim more than 15 days before expiration of the time provided in Section 19100 and the claimant's petition was filed within 30 days after either the claimant or the claimant's attorney had knowledge of the existence of the claim whichever occurred first.

(b) The court shall not allow a claim to be filed under this section more than one year after the date of first publication of notice to creditors under Section 19040. Nothing in this subdivision authorizes allowance or approval of a claim barred by, or extends the time provided in, Section 353 of the Code of Civil Procedure.

(c) The court may condition the claim on terms that are just and equitable. The court may deny the claimant's petition if a distribution to trust beneficiaries or payment to general creditors has been made and it appears the filing or establishment of the claim would cause or tend to cause unequal treatment among beneficiaries or creditors.

(d) Regardless of whether the claim is later established in whole or in part, property distributed under the terms of the trust subsequent to an order settling claims under Chapter 2 (commencing with Section 19020) and payments otherwise properly made before a claim is filed under this section are not subject to the claim. Except to the extent provided in Chapter 12 (commencing with Section 19400) and subject to Section 19053, the trustee, distributee, or payee is not liable on account of the prior distribution or payment.

19104. (a) Subject to subdivision (b), if a claim is filed within the time provided in this chapter, the claimant may later amend or revise the claim. The amendment or revision shall be filed in the same manner as the claim.

(b) An amendment or revision may not be made to increase the amount of the claim after the time for filing a claim has expired. An amendment or revision to specify the amount of a claim that, at the time of filing, was not due, was contingent, or was not yet ascertainable, is not an increase in the amount of the claim within the meaning of this subdivision. An amendment or revision of a claim may not be made for any purpose after the earlier of the following times:

(1) The time the court makes an order approving settlement of the claim against the deceased settlor under Chapter 2 (commencing with Section 19020).

(2) One year after the date of the first publication of notice to creditors under Section 19040. Nothing in this paragraph authorizes

allowance or approval of a claim barred by, or extends the time provided in, Section 353 of the Code of Civil Procedure.

CHAPTER 6. FILING OF CLAIMS

19150. (a) A claim may be filed by the claimant or a person acting on behalf of the claimant.

(b) A claim shall be filed with the court and a copy shall be mailed to the trustee. Failure to mail a copy to the trustee does not invalidate a properly filed claim, but any loss that results from the failure shall be borne by the claimant.

19151. (a) A claim shall be supported by the affidavit of the claimant or the person on behalf of the claimant stating:

(1) The claim is a just claim.

(2) If the claim is due, the facts supporting the claim, the amount of the claim, and that all payments on and offsets to the claim have been credited.

(3) If the claim is not due or contingent, or the amount is not yet ascertainable, the facts supporting the claim.

(4) If the affidavit is made by a person other than the claimant, the reason it is not made by the claimant.

(b) The trustee may require satisfactory vouchers or proof to be produced to support the claim. An original voucher may be withdrawn after a copy is provided. If a copy is provided, the copy shall be attached to the claim.

19152. (a) If a claim is based on a written instrument, either the original or a copy of the original with all endorsements shall be attached to the claim. If a copy is attached, the original instrument shall be exhibited to the trustee on demand unless it is lost or destroyed, in which case the fact that it is lost or destroyed shall be stated in the claim.

(b) If the claim or a part of the claim is secured by a mortgage, deed of trust, or other lien that is recorded in the office of the recorder of the county in which the property subject to the lien is located, it is sufficient to describe the mortgage, deed of trust, or lien and the recording reference for the instrument that created the mortgage, deed of trust, or other lien.

19153. The Judicial Council may adopt a claim form which shall inform the creditor that the claim must be filed with the court and a copy mailed or delivered to the trustee. Any such claim form shall include a proof of mailing or delivery of a copy of the claim to the trustee which may be completed by the creditor.

19154. (a) Notwithstanding any other provision of this part, if a claimant makes a written demand for payment within the time specified in Section 19100, the trustee may waive formal defects and elect to treat the demand as a claim that is filed and established under this part by paying the amount demanded.

(b) Nothing in this section limits application of the doctrines of waiver, estoppel, laches, or detrimental reliance or any other

equitable principle.

CHAPTER 7. CLAIMS BY PUBLIC ENTITIES

19200. (a) Except as provided in this chapter, a claim by a public entity shall be filed within the time otherwise provided in this part. A claim not so filed is barred, including any lien imposed for the claim.

(b) As used in this chapter, "public entity" has the meaning provided in Section 811.2 of the Government Code, and includes an officer authorized to act on behalf of the public entity.

19201. (a) Notwithstanding any other statute, if a claim of a public entity arises under a law, act, or code listed in subdivision (b):

(1) The public entity may provide a form to be used for the written notice or request to the public entity required by this chapter. Where appropriate, the form may require the decedent's social security number, if known.

(2) The claim is barred only after written notice or request to the public entity and expiration of the period provided in the applicable section. If no written notice or request is made, the claim is enforceable by the remedies, and is barred at the time, otherwise provided in the law, act, or code.

(b)

Law, Act or Code	Applicable Section
Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code)	Section 6487.1 of the Revenue and Taxation Code
Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code)	Section 6487.1 of the Revenue and Taxation Code
Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code)	Section 6487.1 of the Revenue and Taxation Code
Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301) of Division 2 of the Revenue and Taxation Code)	Section 7675.1 of the Revenue and Taxation Code
Use Fuel Tax Law (Part 3 (commencing with Section 8601) of Division 2 of the Revenue and Taxation Code)	Section 8782.1 of the Revenue and Taxation Code

Personal Income Tax Law (Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code)	Section 19266 of the Revenue and Taxation Code
Cigarette Tax Law (Part 13 (commencing with Section 30001) of Division 2 of the Revenue and Taxation Code)	Section 30207.1 of the Revenue and Taxation Code
Alcoholic Beverage Tax Law (Part 14 (commencing with Section 32001) of Division 2 of the Revenue and Taxation Code)	Section 32272.1 of the Revenue and Taxation Code
Unemployment Insurance Code	Section 1090 of the Unemployment Insurance Code
State Hospitals for the Mentally Disordered (Chapter 2 (commencing with Section 7200) of Division 7 of the Welfare and Institutions Code)	Section 7277.1 of the Welfare and Institutions Code
Medi-Cal Act (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code)	Section 9202 of the Probate Code
Waxman-Duffy Prepaid Health Plan Act (Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code)	Section 9202 of the Probate Code

19202. (a) If the trustee knows or has reason to believe that the deceased settlor received health care under Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code, the trustee shall give the State Director of Health Services notice of the deceased settlor's death in the manner provided in Section 215.

(b) The director has four months after notice is given in which to file a claim.

19203. If property in the trust is distributed before expiration of the time allowed a public entity to file a claim, the public entity has a claim against the distributees to the full extent of the public entity's

claim or each distributee's share of the distributed property, as set forth in Section 19402, whichever is less. The public entity's claim against distributees includes interest at a rate equal to that earned in the Pooled Money Investment Account pursuant to Article 4.5 (commencing with Section 16480) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code, from the date of distribution or the date of filing the claim by the public entity, whichever is later, plus other accruing costs as in the case of enforcement of a money judgment.

19204. Nothing in this chapter shall be construed to affect the order of priority of debts provided for under other provisions of law.

19205. This chapter does not apply to liability for the restitution of amounts illegally acquired through the means of a fraudulent, false, or incorrect representation, or a forged or unauthorized endorsement.

CHAPTER 8. ALLOWANCE AND REJECTION OF CLAIMS

19250. When a claim is filed, the trustee shall allow or reject the claim in whole or in part.

19251. (a) Any allowance or rejection shall be in writing. The trustee shall file the allowance or rejection with the court clerk and give notice to the claimant, together with a copy of the allowance or rejection, as provided in Section 1215.

(b) The allowance or rejection shall contain the following information:

(1) The name of the claimant.

(2) The date of the settlor's death.

(3) The total amount of the claim.

(4) The amount allowed or rejected by the trustee.

(5) A statement that the claimant has 90 days from the time the notice of rejection is given, or 90 days after the claim becomes due, whichever is later, in which to bring an action on a claim rejected in whole or in part.

(c) The Judicial Council shall prescribe an allowance or rejection form, which may be part of the claim form. Use of a form prescribed by the Judicial Council is deemed to satisfy the requirements.

(d) This section does not apply to a demand the trustee elects to treat as a claim under Section 19154.

19252. The trustee shall have the power to pay any claim or portion of a claim and payment shall constitute allowance of the claim to the extent of the payment. The trustee shall have the power to compromise any claim or portion of a claim. If the trustee or the attorney for the trustee is a claimant of the deceased settlor, the trustee shall have the same powers regarding allowance, rejection, payment, or compromise set forth in this chapter.

19253. (a) A claim barred by the statute of limitations may not be allowed by the trustee.

(b) The filing of a claim tolls the statute of limitations otherwise

applicable to the claim until the trustee gives notice of allowance or rejection.

(c) The allowance of a claim further tolls the statute of limitations as to the part of the claim allowed until the allowed portion of the claim is paid.

(d) Notwithstanding the statute of limitations otherwise applicable to a claim, if an action on a rejected claim is not commenced or if the matter is not referred to a referee or to arbitration within the time prescribed in Section 19255, it is forever barred.

19254. If within 30 days after a claim is filed the trustee has refused or neglected to act on the claim, the refusal or neglect may, at the option of the claimant, be deemed equivalent to the giving of a notice of rejection on the 30th day.

19255. (a) A rejected claim is barred as to the part rejected unless the claimant brings an action on the claim or the matter is referred to a referee or to arbitration within the following times, excluding any time during which there is a vacancy in the office of the trustee:

(1) If the claim is due at the time of giving the notice of rejection, 90 days after the notice is given.

(2) If the claim is not due at the time of giving the notice of rejection, 90 days after the claim becomes due.

(b) In addition to any other county in which an action on a rejected claim may be commenced, the action may be commenced in the county or city and county wherein the principal place of administration of the trust is located.

(c) The claimant shall file a notice of the pendency of the action or the referral to a referee or to arbitration with the court clerk in the trust proceeding, together with proof of giving a copy of the notice to the trustee as provided in Section 1215. Personal service of a copy of the summons and complaint on the trustee is equivalent to the filing and giving of the notice.

(d) Any property distributed by the trustee under the terms of the trust after 120 days from the later of the time the notice of rejection is given or the claim is due and before the notice of pendency of action or referral or arbitration is filed and given, is not subject to the claim. Neither the trustee nor the distributee is liable on account of the distribution.

(e) The prevailing party in the action shall be awarded court costs and, if the court determines that the prosecution or defense of the action against the prevailing party was unreasonable, the prevailing party shall be awarded reasonable litigation expenses, including attorney's fees. For the purpose of this subdivision, the prevailing party shall be the trustee if the creditor recovers an amount equal to or less than the amount of the claim allowed by the trustee, and shall be the creditor if the creditor recovers an amount greater than the amount of the claim allowed by the trustee.

CHAPTER 9. CLAIMS ESTABLISHED BY JUDGMENT

19300. (a) Except as provided in Section 19303, after the death of the settlor all money judgments against the deceased settlor on a claim against the deceased settlor or against the trustee on a claim against the decedent or the trust estate are payable in the course of administration and are not enforceable against property in the trust estate of the deceased settlor under the Enforcement of Judgments Law (Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure).

(b) Subject to Section 19301, a judgment referred to in subdivision (a) shall be filed in the same manner as other claims.

19301. When a money judgment against a trustee in a representative capacity becomes final, it conclusively establishes the validity of the claim for the amount of the judgment. The judgment shall provide that it is payable out of property in the deceased settlor's trust estate in the course of administration. An abstract of the judgment shall be filed in the trust administration proceedings.

19302. (a) Notwithstanding the death of the settlor, a judgment for possession of trust property or a judgment for sale of trust property may be enforced under the Enforcement of Judgments Law (Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure). Nothing in this subdivision authorizes enforcement under the Enforcement of Judgments Law against any property in the trust estate of the deceased settlor other than the property described in the judgment for possession or sale.

(b) After the death of the settlor, a demand for money that is not satisfied from the trust property described in a judgment for sale of property shall be filed as a claim in the same manner as other claims and is payable in the course of administration.

19303. If trust property of the deceased settlor is subject to an execution lien at the time of the settlor's death, enforcement against the property may proceed under the Enforcement of Judgments Law (Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure) to satisfy the judgment. The levying officer, as defined in Section 680.260 of the Code of Civil Procedure, shall account to the trustee for any surplus. If the judgment is not satisfied, the balance of the judgment remaining unsatisfied is payable in the course of administration.

19304. (a) An attachment lien may be converted into a judgment lien on property in the trust estate subject to the attachment lien, with the same priority as the attachment lien, in either of the following cases:

(1) Where the judgment debtor dies after entry of judgment in an action in which the property was attached.

(2) Where a judgment is entered after the death of the defendant in an action in which the property was attached.

(b) To convert the attachment lien into a judgment lien, the levying officer shall, after entry of judgment in the action in which

the property was attached and before the expiration of the attachment lien, do one of the following:

(1) Serve an abstract of the judgment, and a notice that the attachment lien has become a judgment lien, on the trustee or other person holding property subject to the attachment lien.

(2) Record or file in any office where the writ of attachment and notice of attachment are recorded or filed an abstract of the judgment and a notice that the attachment lien has become a judgment lien. If the attached property is real property, the plaintiff or the plaintiff's attorney may record the required abstract and notice with the same effect as if recorded by the levying officer.

(c) After the death of the settlor, any members of the deceased settlor's family who were supported in whole or in part by the deceased settlor may claim an exemption provided in Section 487.020 of the Code of Civil Procedure for property levied on under the writ of attachment if the right to the exemption exists at the time the exemption is claimed. The trustee may claim the exemption on behalf of members of the deceased settlor's family. The claim of exemption may be made at any time before the time the abstract and notice are served, recorded, or filed under subdivision (b) with respect to the property claimed to be exempt. The claim of exemption shall be made in the same manner as an exemption is claimed under Section 485.610 of the Code of Civil Procedure.

CHAPTER 10. ALLOCATION OF DEBTS BETWEEN TRUST AND SURVIVING SPOUSE

19320. If it appears that a debt of the deceased settlor has been paid or is payable in whole or in part from property in the deceased settlor's trust, then the trustee, the surviving spouse, the personal representative, if any, or a deceased settlor's probate estate, or a beneficiary may petition for an order to allocate the debt.

19321. A petition under Section 19320 shall include a statement of all of the following:

(a) All debts of the deceased settlor and surviving spouse known to the petitioner that are alleged to be subject to allocation and whether paid in whole or in part or unpaid.

(b) The reason why the debts should be allocated.

(c) The proposed allocation and the basis for allocation alleged by the petitioner.

19322. If it appears from the petition under Section 19320 that allocation would be affected by the value of the separate property of the surviving spouse and any community property and quasi-community property not administered in the trust, and if an inventory and appraisal of the property has not been provided by the surviving spouse, the court shall make an order to show cause why the information should not be provided.

19323. (a) At least 30 days before the time set for the hearing on the petition, the petitioner shall cause notice of the time and place

of the hearing and a copy of the petition to be served on the surviving spouse in the manner provided in Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure.

(b) At least 30 days before the time set for the hearing on the petition, the petitioner shall cause notice of the time and place of hearing, together with a copy of the petition, to be mailed to each of the following persons who are not petitioners:

(1) All trustees of the trust and of any trusts to which an allocation of liability may be approved by the court pursuant to the petition.

(2) All beneficiaries affected.

(3) The personal representative of the deceased settlor's estate, if any is known to the trustee.

(4) The Attorney General, if the petition relates to a charitable trust subject to the jurisdiction of the Attorney General, unless the Attorney General waives notice.

19324. (a) The trustee, the personal representative, if any, of a deceased settlor's probate estate, and the surviving spouse may provide for allocation of debts by agreement so long as the agreement substantially protects the rights of other interested persons. The trustee, the personal representative, or the spouse may request and obtain court approval of the allocation provided in the agreement.

(b) In the absence of an agreement, each debt of the deceased settlor shall be apportioned based on all of the property of the spouses liable for the debt at the date of death that is not exempt from enforcement of a money judgment, in the proportion determined by the value of the property less any liens and encumbrances at the date of death, adjusted to take into account any right of reimbursement that would have been available if the property were applied to the debt at the date of death, and the debt shall be allocated accordingly.

19325. On making a determination as provided in this chapter, the court shall make an order that:

(a) Directs the trustee to make payment of the amounts allocated to the trust by payment to the surviving spouse or creditors.

(b) Directs the trustee to charge amounts allocated to the surviving spouse against any property or interests of the surviving spouse that are in the possession or control of the trustee. To the extent that property or interests of the surviving spouse in the possession or control of the trustee are insufficient to satisfy the allocation, the court order shall summarily direct the surviving spouse to pay the allocation to the trustee.

19326. Notwithstanding any other statute, funeral expenses and expenses of last illness, in the absence of specific provisions in a will or trust to the contrary, shall be charged against the deceased settlor's probate estate and thereafter, against the deceased settlor's share of the trust and shall not be allocated to or charged against, the community share of the surviving spouse, whether or not the surviving spouse is financially able to pay the expenses and whether

or not the surviving spouse or any other person is also liable for the expenses.

CHAPTER 11. LIABILITY OF SETTLOR'S SURVIVING SPOUSE

19330. If proceedings are commenced under this part for the settlement of claims against the trust, and the time for filing claims has commenced, any action upon the liability of the surviving spouse under Chapter 3 (commencing with Section 13550) is barred to the same extent as provided for claims under this part, except as to the following:

(a) Any creditor who commences judicial proceedings to enforce a claim and serves the surviving spouse with the complaint prior to the expiration of the time for filing claims.

(b) Any creditor who has or who secures the surviving spouse's acknowledgment in writing of the liability of the surviving spouse for the claim.

(c) Any creditor who files a timely claim in the proceedings for the administration of the estate of the deceased spouse.

CHAPTER 12. DISTRIBUTEE LIABILITY

19400. Subject to Section 353 of the Code of Civil Procedure, if there is no proceeding to administer the estate of the deceased settlor, and if the trustee does not file a proposed notice to creditors pursuant to Section 19003 and does not publish notice to creditors pursuant to Chapter 3, then a beneficiary of the trust to whom payment, delivery, or transfer of the deceased settlor's property is made pursuant to the terms of the trust is personally liable, to the extent provided in Section 19402, for the unsecured claims of the creditors of the deceased settlor's estate.

19401. Subject to Section 19402, if the trustee filed a proposed notice to creditors pursuant to Section 19003 and published notice to creditors pursuant to Section 19040, and if the identity of the creditor was known to, or reasonably ascertainable by, the trustee within four months of the first publication of notice pursuant to Section 19040, then a person to whom property is distributed is personally liable for the claim of the creditor, without a claim first having been filed, if all of the following conditions are satisfied:

(a) The claim of the creditor was not merely conjectural.

(b) Notice to the creditor was not given to the creditor under Chapter 4 (commencing with Section 19050) and neither the creditor nor the attorney representing the creditor in the matter had actual knowledge of the administration of the trust estate sooner than one year after the date of first publication of notice pursuant to Section 19040.

(c) The statute of limitations applicable to the claim under Section 353 of the Code of Civil Procedure has not expired at the time of commencement of an action under this section.

19402. (a) In any action under this chapter, subject to Section 353 of the Code of Civil Procedure, the distributee may assert any defenses, cross-complaints, or setoffs that would have been available to the deceased settlor if the settlor had not died.

(b) Personal liability under this chapter is applicable only to the extent the claim of the creditor cannot be satisfied out of the trust estate of the deceased settlor and is limited to a pro rata portion of the claim of the creditor, based on the proportion that the value of the property distributed to the person out of the trust estate bears to the total value of all property distributed to all persons out of the trust estate. Personal liability under this chapter for all claims of all creditors shall not exceed the value of the property distributed to the person out of the trust estate. As used in this chapter, the value of the property is the fair market value of the property on the date of its distribution, less the amount of any liens and encumbrances on the property at that time.

19403. Nothing is this chapter affects the rights of a purchaser or encumbrancer of property in good faith and for value from a person who is personally liable under this section.

CHAPTER 993

An act to add Section 22035.5 to the Public Contract Code, relating to public contracts.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 22035.5 is added to the Public Contract Code, to read:

22035.5. In counties that are under court order to relieve justice facility overcrowding, the procedures and restrictions specified in Section 20134 shall apply to all contracts issued under this chapter.

CHAPTER 994

An act to amend Section 8429 of the Education Code, to amend Sections 18986.2, 18986.3, 18986.11, 18986.15, 18986.20, 18986.21, and 18986.30 of, to amend and renumber Sections 18986.22 and 18986.23 of, and to add Section 18986.22 to, the Welfare and Institutions Code, and to repeal Section 1.2 of Chapter 1252 of the Statutes of 1977, relating to children.

[Approved by Governor October 13, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 8429 of the Education Code is amended to read:

8429. The advisory committee established pursuant to Section 8286 shall also perform the following functions with regard to this article:

(a) Review the establishment of all child care and employment funds, and gather public information as to the appropriateness and effectiveness of their implementation.

(b) Serve in an advisory capacity to the Secretary of Child Development and Education, the Superintendent of Public Instruction and the Governor for program policy decisions.

(c) Assist the State Department of Education in developing and reviewing guidelines for the administration of all child care and employment funds.

(d) Make recommendations to the Governor, the State Department of Education, the State Department of Social Services, the Secretary of Child Development and Education, the Legislature, and the State Job Training Council with regard to program development and expansion of child care and employment funds.

SEC. 2. Section 18986.2 of the Welfare and Institutions Code is amended to read:

18986.2. It is the intent of the Legislature, in enacting this chapter, to encourage the development of a comprehensive and collaborative delivery system of services to children and youths at the state and local level and to offer fiscal incentives in the form of waivers and negotiated contracts to encourage collaboration. The goal of that collaborative system shall be to:

(a) Develop a service delivery plan which emphasizes preventive and early intervention services that maximize the healthy development of children and minimize the long-term need for public resources.

(b) Allow for flexibility of expenditures in public funds.

(c) Emphasize local decisionmaking and provide for greater flexibility to local government in designing delivery systems.

(d) Provide for a continuum of family-centered, child-focused

services through public/private partnerships within the community.

(e) Minimize duplicate administrative systems.

(f) Identify gaps in services to target populations.

(g) Provide case management services to children and families with multiple needs.

(h) Involve school districts in the planning and delivery of coordinated services for children.

SEC. 3. Section 18986.3 of the Welfare and Institutions Code is amended to read:

18986.3. For purposes of this chapter, the following definitions shall apply:

(a) "Children's services" means any services provided by any state or local agency or private entity for the health, safety, or well-being of minors.

(b) "Council" means an interagency children's services coordinating council established pursuant to Section 18986.10.

(c) "Secretary of Child Development and Education" means a cabinet level officer appointed by the Governor.

SEC. 4. Section 18986.11 of the Welfare and Institutions Code is amended to read:

18986.11. A council shall be comprised of, but not limited to, the following members:

(a) Persons responsible for management of the following county functions:

(1) Alcohol and drug programs.

(2) Children's services.

(3) Housing and redevelopment.

(4) Mental health services.

(5) Probation.

(6) Public health services.

(7) Welfare or public social services.

(b) The presiding judge of the county's juvenile court.

(c) The superintendent of the county office of education and at least one superintendent of a unified school district within the county.

(d) A prosecuting attorney of the county or city and county.

(e) A representative of a private nonprofit corporation which has a goal of entering into a public private partnership with the county to meet the needs of children that are not adequately met by existing public or private funds.

(f) One member of the county board of supervisors.

(g) A representative of law enforcement.

(h) A representative of the local child abuse council.

(i) A representative of a local planning agency participating in the California Early Intervention Program pursuant to Subchapter VIII (commencing with Section 1471) of Chapter 33 of Title 20 of the United States Code.

(j) A representative of the local child care resource and referral agency or other local child care coordinating group.

SEC. 5. Section 18986.15 of the Welfare and Institutions Code is amended to read:

18986.15. Each county wishing to participate under this chapter shall develop a three-year program for phasing in a coordinated children's services system.

(a) A plan for coordinated children's services may include proposals to combine and coordinate services to one or more of the following special populations of children provided by two or more existing local service agencies:

(1) Abused or neglected children and those at risk of abuse or neglect.

(2) Children in foster care or at risk of entering foster care.

(3) Children requiring mental health services.

(4) Children needing health care services delivered by local maternal and child health services, including, but not limited to, services provided under the California Children's Services Program, the Child Health and Disability Prevention Program, and perinatal services.

(5) Delinquent, status offender, and homeless minors.

(6) Minors in need of job training and placement services.

(7) School dropouts, or those at risk of dropping out.

(8) Infants born with identified drug dependencies and children with known histories of substance abuse.

(9) Children with developmental disabilities.

(10) Children in need of preschool or child care services.

(b) Plans shall include all of the following:

(1) Use of existing service capabilities within the various agencies currently serving children's needs in the county.

(2) Interagency collaboration and program consolidation among publicly and privately funded agencies providing services to children.

(3) Appropriate interagency protocols and agreements.

(4) Services for the most vulnerable or at-risk children.

(5) Services which permit children to reside in their usual family setting whenever possible and in their best interest.

(6) Components designed to promote an effective case management system.

(7) Estimates of cost benefits and cost avoidance of the program proposal.

(8) A specific list of the benefits to children under the plan, including objective measures of successful outcome and program effectiveness.

(c) No later than July 1 of each year, any county that wishes to participate pursuant to this chapter shall submit to the county board of supervisors a program proposal for the development of a coordinated system of children's services.

SEC. 6. Section 18986.20 of the Welfare and Institutions Code is amended to read:

18986.20. (a) Any county that wishes to participate under this

chapter and that develops a three-year program of coordinated children's services pursuant to Section 18986.15, may, as a part of its plan, request a waiver of existing state regulations pertaining to requirements which hinder coordination of children's services. The county may also request authorization to enter into a negotiated contract which enables the repositioning and reallocation of existing resources to facilitate integrated case management and coordination among participating agencies.

(b) Requests for waivers or negotiated contracts shall be submitted in writing, with a detailed description of the county's plan for coordinated children's services and a detailed description of the need for the waiver or negotiated contract to the Secretary of the Health and Welfare Agency, the Superintendent of Public Instruction, the Attorney General, the Secretary of the Youth and Adult Correctional Agency, and the Secretary of Child Development and Education. Requests for negotiated contracts shall also be submitted to the Department of Finance.

SEC. 7. Section 18986.21 of the Welfare and Institutions Code is amended to read:

18986.21. (a) A waiver or waivers may be granted pursuant to this chapter when existing regulations hinder the coordination of children's services and when waivers would facilitate the implementation of this chapter.

(b) Any request for a waiver under this chapter shall contain, at a minimum, all of the following:

(1) The regulation or regulations for which the county requests a waiver.

(2) A statement regarding why the identified regulation or regulations should be waived.

(3) A statement regarding why the identified regulation or regulations inhibit the efficient administration of the program.

(4) A comparison of the following:

(A) The services and the number of persons to be served under the requested waiver.

(B) The services and the number of persons to be served without the requested waiver.

(5) Projected costs or savings due to the requested waiver.

(6) Any impact on state and federal funding.

(c) When approving a county request for a waiver pursuant to this chapter, the entity granting the waiver shall ensure all of the following:

(1) Services and eligible persons served under the affected program are maintained.

(2) There is no increase in costs to the state or to clients.

(3) There is no loss of federal financial participation.

SEC. 8. Section 18986.22 is added to the Welfare and Institutions Code, to read:

18986.22. (a) A negotiated contract may be awarded pursuant to this chapter when existing regulations and categorical programs

hinder the coordination of children's services and prohibit integrated case management.

(b) A negotiated contract means an agreement entered into between the state and the county pursuant to Section 18986.23 which authorizes the reallocation of existing resources from participating agencies for purposes specified in each contract.

(c) Each negotiated contract shall specify all of the following:

(1) The target population to be served.

(2) The core services to be offered.

(3) The net amount of resources to be reallocated and pooled.

(4) Intake and eligibility criteria.

(5) Provisions for sharing data between agencies while maintaining client confidentiality.

(6) Evaluation measures, including specific outcomes and performance criteria to be achieved as a condition of the negotiated contract and appropriate sanctions if evaluation measures are not met.

(7) The duration of the contract period, including provisions for contract renewal.

(8) any other provisions which are deemed necessary to ensure program and fiscal accountability.

SEC. 9. Section 18986.22 of the Welfare and Institutions Code is amended and renumbered to read:

18986.23. Waivers and negotiated contracts shall be granted pursuant to this chapter by the Secretary of the Health and Welfare Agency, the Superintendent of Public Instruction, the Attorney General, or the Secretary of the Youth and Adult Correctional Agency, in consultation with the Secretary of Child Development and Education and the Department of Finance as follows:

(a) The Secretary of the Health and Welfare Agency shall grant waivers or negotiated contracts for programs under his or her jurisdiction, in consultation with the Superintendent of Public Instruction, the Attorney General, the Secretary of the Youth and Correctional Agency, and the Secretary of Child Development and Education.

(b) The Superintendent of Public Instruction shall grant waivers or negotiated contracts for programs under his or her jurisdiction, in consultation with the Attorney General, the Secretary of the Health and Welfare Agency, the Secretary of the Youth and Adult Correctional Agency, and the Secretary of Child Development and Education.

(c) The Attorney General shall grant waivers or negotiate contracts for programs under his or her jurisdiction in consultation with the Superintendent of Public Instruction, the Secretary of the Health and Welfare Agency, the Secretary of the Youth and Adult Correctional Agency, and the Secretary of Child Development and Education.

(d) The Secretary of the Youth and Adult Correctional Agency shall grant waivers or negotiate contracts for programs under his or

her jurisdiction in consultation with the Attorney General, the Superintendent of Public Instruction, the Secretary of the Health and Welfare Agency, and the Secretary of Child Development and Education.

(e) The entity to whom a request for a waiver or negotiated contract is submitted pursuant to this section shall issue written notice of the granting of the waiver, any delay in the consideration of the waiver request, or denial of the requested waiver within 60 days of the receipt of the request. Any county may appeal a negative decision regarding a requested waiver or negotiated contract.

(f) In addition to approval required by subdivisions (a) to (d), inclusive, all requests for negotiated contracts shall be approved by the Department of Finance.

SEC. 10. Section 18986.23 of the Welfare and Institutions Code is amended and renumbered to read:

18986.24. The Secretary of Child Development and Education, the Secretary of the Health and Welfare Agency, the Superintendent of Public Instruction, the Attorney General, or the Secretary of the Youth and Adult Correctional Agency shall notify the appropriate policy committees and fiscal committees of the Legislature no later than 30 days before any waiver or negotiated contract granted pursuant to this article take effect.

SEC. 11. Section 18986.30 of the Welfare and Institutions Code is amended to read:

18986.30. Commencing two years after the approval of an initial waiver or negotiated contract request pursuant to Sections 18986.20 to 18986.24, inclusive, the Legislative Analyst shall review and report to the Legislature on the annual progress of the councils for which fiscal incentives and necessary waivers or negotiated contracts to establish the council's programs have been approved and granted. Programs to coordinate comprehensive children's services shall be deemed successful based upon the following:

(a) The county's ability to meet specific success criteria as specified in its overall plan.

(b) The county's ability to demonstrate cost avoidance which equals or exceeds the cost of the plan. This cost avoidance shall include the following categories, where appropriate:

(1) Group home costs paid by Aid to Families with Dependent Children-Foster Care (AFDC-FC).

(2) Children and adolescent state hospital programs.

(3) Juvenile justice recidivism or reincarceration.

(4) Nonpublic school residential placement costs.

(5) Other short-term and long-term savings in public funds resulting from the plans.

SEC. 12. Section 1.2 of Chapter 1252 of the Statutes of 1977 is repealed.

CHAPTER 995

An act to amend Section 14526.5 of, and to repeal Section 14532 of, the Government Code, and to amend Sections 50060, 50070, 50087, 99233.4, 99312, 99317, 99400, 99405, and 161030 of, and to add Sections 99260.6 and 99313.7 to, the Public Utilities Code, and to add Section 199.11 to the Streets and Highways Code, relating to transportation.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 14526.5 of the Government Code is amended to read:

14526.5. (a) The department shall prepare and submit to the commission a highway systems operation and protection plan for the expenditure of transportation funds for major capital improvements that are not included in the state transportation improvement program pursuant to Section 14529. The plan shall be submitted to the commission not later than December 1 of each odd-numbered year and shall include projects that have been identified to begin construction within four fiscal years, starting July 1 of the year following the year the plan is submitted.

(b) The plan shall include a list of projects which are expected to be advertised prior to July 1 of the year following submission of the plan, but for which the commission has not yet allocated funds.

(c) In adopting the plan, the commission may modify the department's recommendation if it finds an urgent need within a county minimum allocation to fund a project in another program element.

(d) The commission shall adopt and submit the plan to the Legislature and the Governor not later than April 1 of each even-numbered year.

SEC. 2. Section 14532 of the Government Code is repealed.

SEC. 3. Section 50060 of the Public Utilities Code is amended to read:

50060. The government of the district shall be vested in a board of five directors. Two of the directors shall be appointed by the Board of Supervisors of the County of San Joaquin. Two of the directors shall be appointed by the City Council of the City of Stockton. The board of supervisors, together with five members of the city council appointed by the mayor, shall constitute a board of election which, by a majority vote, shall appoint the fifth director.

SEC. 4. Section 50070 of the Public Utilities Code is amended to read:

50070. The board shall annually, in January, select one of its members as chairperson to serve at the pleasure of the board. The chairperson shall preside at all meetings of the board and shall vote

on the propositions passed upon by the board.

SEC. 5. Section 50087 of the Public Utilities Code is amended to read:

50087. The board shall adopt rules for its proceedings and may provide, by ordinance or resolution, that each member shall receive for each attendance at the meetings of the board the sum of fifty dollars ($50), but not to exceed one hundred dollars ($100) in any calendar month, and shall be allowed such necessary traveling and personal expenses incurred in the performance of his or her duties as authorized by the board.

SEC. 6. Section 99233.4 of the Public Utilities Code is amended to read:

99233.4. Allocations shall be made for rail passenger service operations and capital improvements pursuant to Section 99234.5, 99234.7, or 99234.9.

SEC. 7. Section 99260.6 is added to the Public Utilities Code, to read:

99260.6. Public agencies authorized to file claims pursuant to Section 99234.9 may file claims under this article.

SEC. 8. Section 99312 of the Public Utilities Code is amended to read:

99312. From the funds transferred to the account pursuant to Section 7102 of the Revenue and Taxation Code, the Legislature shall appropriate funds for purposes of Section 99315.5. The remaining transferred funds in the account shall be appropriated by the Legislature, as follows:

(a) To the department, 50 percent for purposes of Section 99315.

(b) To the Controller, 25 percent for allocation to transportation planning agencies, county transportation commissions, and the San Diego Metropolitan Transit Development Board pursuant to Section 99314.

(c) To the Controller, 25 percent for allocation to transportation agencies, county transportation commissions, and the San Diego Metropolitan Transit Development Board for purposes of Section 99313.

SEC. 9. Section 99313.7 is added to the Public Utilities Code, to read:

99313.7. A public agency authorized to file claims with the transportation planning agency and expend funds pursuant to Section 99234.5, 99234.7, or 99234.9 may also file claims, receive allocations, and expend state transit assistance funds made available pursuant to Sections 99313 and 99314.

SEC. 10. Section 99317 of the Public Utilities Code is amended to read:

99317. (a) Funds made available pursuant to subdivision (b) of Section 99315 shall be appropriated to the department for allocation, as directed by the commission, to fund the following types of transit capital improvement projects:

(1) Railroad rights-of-way acquisition.

(2) Bus rehabilitation.
(3) Exclusive public mass transit guideways and rolling stock.
(4) Grade separations.
(5) Intermodal transfer stations serving various transportation modes.
(6) Ferry vessels and terminals.

(b) Funds made available for capital outlay pursuant to subdivision (a) of Section 14031.6 of the Government Code and subdivision (a) of Section 99315 shall be appropriated to the department, as directed by the commission, solely for capital outlay improvements and rolling stock on intercity rail passenger routes.

(c) Funds made available pursuant to Sections 199 and 199.1 of the Streets and Highways Code shall be appropriated to the department for allocation, as directed by the commission, solely to fund exclusive public mass transit guideways.

(d) The amount of funds allocated for a transit capital improvement project, other than an intercity rail transit capital improvement project where matching funds are not required, shall not exceed 50 percent of the amount of the nonfederal share of project cost.

(e) With respect to the sum of money available each fiscal year from the State Highway Account and the Transportation Planning and Development Account for transit capital improvements, the commission shall include, in the state transportation improvement program, one-half of the sum for expenditure in those counties which have adopted a proposition pursuant to Section 4 of Article XIX of the California Constitution. The portion of the amount to be included in the state transportation improvement program for each of those counties shall be in the proportion that its population bears to the total population of all those counties. Allocations pursuant to this subdivision shall be subject to the requirements for guideway financial plans and the ability of an agency to encumber funds on a timely basis, as specified in Sections 199.1, 199.2 and 199.3 of the Streets and Highways Code.

(f) The Legislature may amend this section, by statute passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, if the statute is consistent with, and furthers the purposes of, this section.

SEC. 11. Section 99400 of the Public Utilities Code is amended to read:

99400. Claims may be filed under this article with the transportation planning agency by counties and cities for the following purposes and by transit districts for the purposes specified in subdivisions (c) to (e), inclusive:

(a) Local streets and roads, and projects which are provided for use by pedestrians and bicycles.

(b) Passenger rail service operations and capital improvements.

(c) Payment to any entity which is under contract with a county, city, or transit district for public transportation or for transportation

services for any group, as determined by the transportation planning agency, requiring special transportation assistance.

If the county, city, or transit district is being served by an operator, the contract entered into by the county, city, or transit district shall specify the level of service to be provided, the operating plan to implement that service, and how that service is to be coordinated with the public transportation service provided by the operator. Prior to approving any claim filed under this section, the transportation planning agency, or the county transportation commission in a county with such a commission, shall make a finding that the transportation services contracted for under subdivision (c) are responding to a transportation need not otherwise being met within the community or jurisdiction of the claimant and that, where appropriate, the services are coordinated with the existing transportation service.

(d) Payments to counties, cities, and transit districts for their administrative and planning cost with respect to transportation services under subdivision (c).

(e) Notwithstanding any other provision of this chapter, a claimant for funds pursuant to subdivision (c) may also receive payments for capital expenditures to acquire vehicles and related equipment, bus shelters, bus benches, and communication equipment for the transportation services.

SEC. 12. Section 99405 of the Public Utilities Code is amended to read:

99405. (a) Except as otherwise provided in this section, the allocation for any purpose specified in Section 99400 may in no year exceed 50 percent of the amount required to meet the city's or county's total proposed expenditures for that purpose.

(b) With respect to budgeted capital requirements for major new facilities, the transportation planning agency, notwithstanding the 50-percent limitation, may allocate up to the amount so budgeted, if the construction of the facilities has been found to be not inconsistent with the transportation planning agency's regional transportation plan.

(c) The 50-percent limitation shall not apply to the allocation to a city, county, or transit district for services under contract pursuant to subdivision (c) or (d) of Section 99400. The city, county, or transit district shall be subject to Section 99268.3, 99268.4, 99268.5, or 99268.9, as the case may be, and shall be deemed an operator for purposes of those sections, or shall be subject to regional, countywide, or county subarea performance criteria, local match requirements, or fare recovery ratios adopted by resolution of the transportation planning agency or the county transportation commission for those services.

(1) In adopting the performance criteria, local match requirements, or fare recovery ratios, the transportation planning agency or the county transportation commission may adopt the criteria of Section 99268.3, 99268.4, 99268.5, or 99268.9, or any combination or all of them.

(2) If a transportation planning agency or county transportation commission has adopted performance criteria, local match requirements, or fare recovery ratios, the rules and regulations of the agency or commission shall apply, and Sections 99205.7 and 99241, subdivision (a) of Section 99247, and Section 99268.8 shall not apply.

(d) The 50-percent limitation shall not apply to funds allocated under this article to a city or county with a population of less than 5,000, and, notwithstanding Section 99400, the city or county may claim funds under this article for transportation services, including associated capital, planning, and administrative costs, without contracting with another entity.

(e) The 50-percent limitation shall not apply to funds allocated under this article for local street and road purposes.

SEC. 13. Section 161030 of the Public Utilities Code is amended to read:

161030. There is hereby appropriated from the State Highway Account in the State Transportation Fund to the department the amount of the proceeds of all sales, except the proceeds of sales pursuant to Section 14528.8 of the Government Code, leases, and rentals, on and after January 1, 1991, of land acquired by the department for transportation purposes, until a total of twenty-five million dollars ($25,000,000) has been so appropriated, to be expended by the department for the purposes of this division.

SEC. 14. Section 199.11 is added to the Streets and Highways Code, to read:

199.11. It is the intent of the Legislature that the commission continue to allocate funds pursuant to Sections 199 and 199.1, notwithstanding the current availability of rail bond funds, consistent both with voter approval of Proposition 5 at the June 4, 1974, direct primary election and with the commitments made by the commission in the 1988 State Transportation Improvement Program. This action is necessary because the bond funds are of a one-time, temporary nature, while guideway funds are available on an ongoing basis, as are the needs of that program.

CHAPTER 996

An act to amend Sections 543 and 544 of, and to add Sections 11515.1 and 24007.6 to, the Vehicle Code, relating to vehicles.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 543 of the Vehicle Code is amended to read:

543. "Salvage pool" means a person engaged exclusively in the business of disposing of total loss salvage vehicles or recovered stolen

vehicles sent to it by, or on behalf of, insurance companies, authorized adjusters, leasing companies, self-insured persons, or financial institutions.

SEC. 2. Section 544 of the Vehicle Code is amended to read:

544. "Total loss salvage vehicle" means a vehicle of a type subject to registration which has been wrecked, destroyed, or damaged, to such an extent that the owner, leasing company, financial institution, or the insurance company which insured the vehicle, considers it uneconomical to repair the vehicle and because of this, the vehicle is not repaired by or for the person who owned the vehicle at the time of the event resulting in damage.

SEC. 3. Section 11515.1 is added to the Vehicle Code, to read:

11515.1. A salvage pool shall sell a vehicle only with a salvage certificate, except pursuant to subdivision (f) of Section 11515.

SEC. 4. Section 24007.6 is added to the Vehicle Code, to read:

24007.6. Except for vehicles sold to a dealer or for the purpose of being wrecked or dismantled or sold exclusively for off-highway use, a salvage pool shall do both of the following:

(a) Give the notice required by subdivisions (a) and (b) of Section 5900.

(b) Notify the buyer that California law requires that the buyer obtain a certificate of compliance or noncompliance and to register the vehicle with the department, and that failure to comply will result in a lien against any vehicle owned by the buyer pursuant to Section 10876 of the Revenue and Taxation Code, enforceable pursuant to Section 10877 of the Revenue and Taxation Code and Article 6 (commencing with Section 9800) of Chapter 6 of Division 3. Receipt of the notice required by this paragraph shall be evidenced by the signature of the buyer.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 997

An act relating to special education.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. (a) The Senate Subcommittee on Mental Health, Developmental Disabilities and Genetic Diseases, the Senate Subcommittee on the Rights of the Disabled, and the Assembly Subcommittee on Mental Health and Developmental Disabilities recently published a report entitled "The Next Step: Empowering California's Developmental Disabilities Community--A Study of the Lanterman Developmental Disabilities Services Act." In developing their findings and recommendations, the subcommittees utilized testimony taken during 15 hearings held throughout California in 1989–90.

The report noted that "In the area of education, there are a number of interagency barriers that prevent the goals of inclusion, appropriate education services, and integrated learning." The report also noted that "Parents complain that IEP's are school-driven not student driven. Few school districts include students with developmental disabilities into regular classrooms with appropriate support service as federal law requires. Most districts still place these students in segregated programs. In either case, students with developmental disabilities often must travel great distances to attend school."

In response, the report made the following recommendation: "Educational opportunities for all children should be provided in integrated neighborhood schools and regular classrooms with necessary support services for children with special needs."

(b) It is therefore the intent of the Legislature to identify model school programs which provide integrated education for disabled pupils in their neighborhood schools. In addition, it is the intent of the Legislature to identify the extent to which all special education pupils are integrated on regular schoolsites and in regular classrooms.

SEC. 2. (a) The Superintendent of Public Instruction shall develop and disseminate a report that profiles model school programs that demonstrate the successful integration of special education pupils into regular school programs. As a part of that report, the Superintendent of Public Instruction shall identify effective teaching practices, strategies, and adaptations that have been utilized in planning and providing opportunities for the integration of special education pupils into their neighborhood schools.

(b) The report shall include a list of research and training

publications and videos to guide school administrators, teachers, parents, and pupils interested in developing similar programs. The superintendent shall publish this report by January 1, 1993. The report shall be provided to all school districts, county offices of education, school principals, special education local planning areas, and special education community advisory committees.

(c) The purpose of the report is to educate local communities about new and successful education practices regarding the integration of special education pupils, including severely handicapped pupils, into regular education programs. This report will provide important information to parents, teachers, and school administrators about successful models that now exist statewide and how these models work. Furthermore, it is the purpose of this report to stimulate community interest in integration as a positive and desirable activity for all pupils and all schools and to guide local school districts and county offices of education in developing their own integration programs and services for special education pupils.

(d) It is the intent of the Legislature that, to the extent permitted by federal law, no more than seventy-five thousand dollars ($75,000) of the funds appropriated pursuant to Schedule (b) of Item 6110-161-890 of Section 2.00 of the Budget Act of 1992–93 be used to develop and disseminate this report.

SEC. 3. The Superintendent of Public Instruction shall report to the Legislature by January 1, 1993, on the following special education indicators:

(a) The number of special education pupils in California who are educated in special education classrooms for all or part of their day.

(b) The number of schoolsites or centers in California that exclusively serve special education pupils.

(c) The progress in integrating pupils in regular classrooms and on regular schoolsites since implementation of Public Law 94-142.

(d) The number of special education pupils who attend their neighborhood school.

CHAPTER 998

An act to amend Sections 3950, 4181, and 4188 of, to amend the heading of Chapter 7 (commencing with Section 4650) of Division 4 of, to add Sections 4651, 4652, 4653, 4654, 4655, 4656, and 4657 to, and to repeal and add Section 4650 of, the Fish and Game Code, relating to game, and making an appropriation therefor.

[Approved by Governor October 13, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 3950 of the Fish and Game Code is amended to read:

3950. (a) Game mammals are: deer (genus Odocoileus), elk (genus Cervus), prong-horned antelope (genus Antilocapra), wild pigs, including feral pigs and European wild boars (genus Sus), black and brown or cinnamon bears (genus Euarctos), mountain lions (genus Felis), jackrabbits and varying hares (genus Lepus), cottontails, brush rabbits, pigmy rabbits (genus Sylvilagus), and tree squirrels (genus Sciurus and Tamiasciurus).

(b) Nelson bighorn sheep (subspecies Ovis canadensis nelsoni) are game mammals only for the purposes of sport hunting in the area described in subdivision (b) of Section 4902.

(c) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1993, deletes or extends that date.

SEC. 1.5. Section 3950 of the Fish and Game Code is amended to read:

3950. Game mammals are: deer (genus Odocoileus), elk (genus Cervus), prong-horned antelope (genus Antilocapra), wild pigs, including feral pigs and European wild boars (genus Sus), black and brown or cinnamon bears (genus Euarctos), mountain lions (genus Felis), jackrabbits and varying hares (genus Lepus), cottontails, brush rabbits, pigmy rabbits (genus Sylvilagus), and tree squirrels (genus Sciurus and Tamiasciurus).

This section shall become operative on January 1, 1993.

SEC. 1.6. Section 4181 of the Fish and Game Code is amended to read:

4181. (a) Except as provided in Section 4181.1, any owner or tenant of land or property that is being damaged or destroyed or is in danger of being damaged or destroyed by elk, bear, beaver, wild pig, or gray squirrels, may apply to the department for a permit to kill any such mammals. The department, upon satisfactory evidence of the damage or destruction, actual or immediately threatened, shall issue a revocable permit for the taking and disposition of the mammals under regulations adopted by the commission. Mammals so taken shall not be sold or shipped from the premises on which they are taken except under instructions from the department. No iron- or steel-jawed or any type of metal-jawed trap shall be used to take any bear pursuant to this section. No poison of any type may be used to take any gray squirrel pursuant to this section. The department shall designate the type of trap to be used to insure the most humane method is used to trap gray squirrels. The department may require trapped squirrels to be released in parks or other nonagricultural areas. It shall be unlawful for any person to violate the terms of any permit issued under this section.

(b) The permit issued for taking bears pursuant to subdivision (a) shall contain the following facts:

(1) Why the issuance of the permit was necessary.

(2) What efforts were made to solve the problem without killing the bears.

(3) What corrective actions should be implemented to prevent reoccurrence.

(c) With respect to wild pigs, commencing July 1, 1992, the department shall provide the applicants for a depredation permit to take wild pigs with written information which sets forth available options for wild pig control, including, but not limited to, depredation permits, allowing periodic access to licensed hunters, and holding special hunts authorized pursuant to Section 4188.

SEC. 2. Section 4188 of the Fish and Game Code is amended to read:

4188. When a landowner or tenant applies for a permit under Section 4181 for wild pigs, or Section 4181.5 for deer, the commission, in lieu of such a permit may, with the consent of, or upon the request of, the landowner or tenant, under appropriate regulations, authorize the issuance of permits to persons holding valid hunting licenses to take wild pigs or deer in sufficient numbers to stop the damage or threatened damage. Prior to issuing permits to licensed hunters, the department shall investigate and determine the number of permits necessary, the territory involved, the dates of the proposed hunt, the manner of issuing the permits, and the fee for the permit.

SEC. 3. The heading of Chapter 7 (commencing with Section 4650) of Division 4 of the Fish and Game Code is amended to read:

CHAPTER 7. WILD PIGS

SEC. 4. Section 4650 of the Fish and Game Code is repealed.

SEC. 5. Section 4650 is added to the Fish and Game Code, to read:

4650. Wild pigs, as used in this chapter, means free-roaming pigs not distinguished by branding, ear marking, or other permanent identification methods.

SEC. 6. Section 4651 is added to the Fish and Game Code, to read:

4651. (a) The department shall prepare a plan for the management of wild pigs. Under the plan, the status and trend of wild pig populations shall be determined and management units shall be designated within the state. The plan may establish pig management zones to address regional needs and opportunities. In preparing the plan, the department shall consider available, existing information and literature relative to wild pigs.

(b) The plan may include all of the following:

(1) The distribution and abundance of wild pigs, as defined in Section 3950.

(2) A survey of range conditions.

(3) Recommendations for investigations and utilization of wild pigs.

SEC. 7. Section 4652 is added to the Fish and Game Code, to read:

4652. (a) It is unlawful to take any wild pig, except as provided in Section 4181, without first procuring a license tag authorizing the taking of such wild pig in accordance with this chapter.

(b) This section shall become operative on July 1, 1992.

SEC. 8. Section 4653 is added to the Fish and Game Code, to read:

4653. The department may determine the design and type of information to be included on the wild pig license tag and prescribe the procedures for the issuance and use of the tag.

SEC. 9. Section 4654 is added to the Fish and Game Code, to read:

4654. (a) Any resident of this state, 12 years of age or older, who possesses a valid hunting license, may procure the number of wild pig tags corresponding to the number of wild pigs that may legally be taken by one person during the license year upon payment of a base fee of one dollar and fifty cents ($1.50), as adjusted under Section 713 for each wild pig tag. Wild pig tags may be sold only in packets of not more than five wild pig tags.

(b) Any nonresident, 12 years of age or older, who possesses a valid California nonresident hunting license, may procure the number of wild pig tags corresponding to the number of wild pigs that may legally be taken by one person during the license year upon payment of a base fee of ten dollars ($10), as adjusted under Section 713, for each wild pig tag. Wild pig tags may be sold only in packets of not more than five wild pig tags.

(c) This section shall become operative on July 1, 1992.

SEC. 10. Section 4655 is added to the Fish and Game Code, to read:

4655. (a) Wild pig license tags are valid only during that portion of the current hunting license year in which wild pigs may be taken or possessed in any area of the state.

(b) This section shall become operative on July 1, 1992.

SEC. 11. Section 4656 is added to the Fish and Game Code, to read:

4656. Revenues received pursuant to this chapter shall be deposited in the Fish and Game Preservation Fund. These funds shall be available for expenditure by the department solely for wild pig management. The department shall maintain all internal accounting measures necessary to ensure that all restrictions on these funds are met.

SEC. 12. Section 4657 is added to the Fish and Game Code, to read:

4657. (a) The holder of a wild pig license tag shall keep the tag in his or her possession while hunting wild pig. Prior to the taking of any wild pig, the holder of a wild pig tag shall write or otherwise affix his or her hunting license number to the wild pig license tag. Upon the killing of any wild pig, the date of the kill shall be clearly marked by the holder of the tag on both parts of the tag. Prior to transporting the pig, a tag shall be attached to the carcass by the holder of the tag. The report card portion of the tag shall be transmitted to the department by the holder of the tag. Possession of an untagged wild

pig is a violation of this section.

(b) This section shall become operative on July 1, 1992.

SEC. 13. Until July 1, 1992, the Department of Fish and Game is exempt from Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code with respect to any printing contracts made to carry out this act.

SEC. 14. It is the intent of the Legislature that the Department of Fish and Game review the current policies and practices regarding depredation permits and, if appropriate, implement improvements or make recommendations for any improvements to the Fish and Game Commission.

SEC. 15. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 999

An act to amend Section 13701 of, and to add Section 264.2 to, the Penal Code, relating to rape victims.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 264.2 is added to the Penal Code, to read:

264.2. (a) Whenever there is an alleged violation of Section 261, 261.5, 262, 286, 288a, or 289, the law enforcement officer assigned to the case shall immediately provide the victim of the crime with the "Victims of Domestic Violence" card, as specified in paragraph (5) of subdivision (i) of Section 13701 of the Penal Code.

(b) The law enforcement officer, or his or her agency, shall immediately notify the local rape victim counseling center whenever a victim of an alleged violation of Section 261, 261.5, 262, 286, 288a, or 289 is transported to a hospital for examination, and the victim approves of that notification. Should there be more than one rape victim counseling center in the local area, the victim shall select the center to be notified.

SEC. 2. Section 13701 of the Penal Code is amended to read:

13701. Every law enforcement agency in this state shall develop, adopt, and implement written policies and standards for officers'

response to domestic violence calls by January 1, 1986. These policies shall reflect that domestic violence is alleged criminal conduct. Further, they shall reflect existing policy that a request for assistance in a situation involving domestic violence is the same as any other request for assistance where violence has occurred. These existing local policies and those developed shall be in writing and shall be available to the public upon request and shall include specific standards for the following:

(a) Felony arrests.

(b) Misdemeanor arrests.

(c) Use of citizen arrests.

(d) Verification and enforcement of temporary restraining orders when (1) the suspect is present and (2) when the suspect has fled.

(e) Verification and enforcement of stay-away orders.

(f) Cite and release policies.

(g) Emergency assistance to victims, such as medical care, transportation to a shelter, and police standbys for removing personal property.

(h) Assisting victims in pursuing criminal options, such as giving the victim the report number and directing the victim to the proper investigation unit.

(i) Furnishing written notice to victims at the scene, including, but not limited to, all of the following information:

(1) (A) A statement informing the victim that despite official restraint of the person alleged to have committed domestic violence, the restrained person may be released at any time.

(B) A statement that, "For further information about a shelter you may contact _____."

(C) A statement that, "For information about other services in the community, where available, you may contact _____."

(2) A statement informing the victim of domestic violence that he or she can ask the district attorney to file a criminal complaint.

(3) A statement informing the victim of the right to go to the superior court and file a petition requesting any of the following orders for relief:

(A) An order restraining the attacker from abusing the victim and other family members.

(B) An order directing the attacker to leave the household.

(C) An order preventing the attacker from entering the residence, school, business, or place of employment of the victim.

(D) An order awarding the victim or the other parent custody of or visitation with a minor child or children.

(E) An order restraining the attacker from molesting or interfering with minor children in the custody of the victim.

(F) An order directing the party not granted custody to pay support of minor children, if that party has a legal obligation to do so.

(G) An order directing the defendant to make specified debit payments coming due while the order is in effect.

(H) An order directing that either or both parties participate in counseling.

(4) A statement informing the victim of the right to file a civil suit for losses suffered as a result of the abuse, including medical expenses, loss of earnings, and other expenses for injuries sustained and damage to property, and any other related expenses incurred by the victim or any agency that shelters the victim.

(5) In the case of an alleged violation of Section 261, 261.5, 262, 286, 288a, or 289, a "Victims of Domestic Violence" card which shall include, but is not limited to, the following information:

(A) The names and locations of rape victim counseling centers within the county, including those centers specified in Section 13837, and their 24-hour counseling service telephone numbers.

(B) A simple statement on the proper procedures for a victim to follow after a sexual assault.

(C) A statement that sexual assault by a person who is known to the victim, including sexual assault by a person who is the spouse of the victim, is a crime.

(j) Writing of reports.

In the development of these policies and standards, each local department is encouraged to consult with domestic violence experts, such as the staff of the local shelter for battered women and their children. Departments may utilize the response guidelines developed by the commission in developing local policies.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1000

An act to add Article 4 (commencing with Section 14640) to Chapter 8.8 of Part 3 of Division 9 of the Welfare and Institutions Code, relating to Medi-Cal, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. The Legislature finds and declares that the closure of inpatient psychiatric units in acute care hospitals has, in several regions of the state, resulted in a shortage of psychiatric beds for Medi-Cal beneficiaries.

SEC. 2. Article 4 (commencing with Section 14640) is added to Chapter 8.8 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Article 4. Acute Psychiatric Health Facility Allocations

14640. (a) The State Department of Mental Health shall allocate funds for the provision of mental health services to Medi-Cal eligible persons over 20 years of age to counties of over one million population that own and operate an acute psychiatric health facility, and in which the number of general acute care hospital psychiatric beds is 50 or less. Counties receiving allocations pursuant to this subdivision may contract with privately operated psychiatric health facilities, or with freestanding psychiatric hospitals which have been certified to provide care to Medi-Cal eligible persons.

(b) Payments made from the allocation established under subdivision (a) shall be made according to state established reimbursement formulas for mental health services, and shall be funded through moneys initially transferred from the State Department of Health Services and subsequently appropriated to the State Department of Mental Health under Item 4440-101-001 of the annual Budget Act.

(c) Allocations made pursuant to subdivision (a) shall not exceed the General Fund share of expenditures made under the Medi-Cal program for acute psychiatric inpatient care units in general acute care hospitals in the subject county during the 1989–90 state fiscal year. Payments shall be made only to the extent that those inpatient units have ceased operation in subsequent years and the capacity has not been replaced by capacity in other general acute care hospitals.

SEC. 2. Funds sufficient to provide the allocations described in Section 14640 of the Welfare and Institutions Code shall be transferred from Item 4260-101-001 of the Budget Act of 1991 to Item 4440-101-001 of the Budget Act of 1991.

SEC. 3. It is the intent of the Legislature that allocations made pursuant to Section 14640 of the Welfare and Institutions Code in the 1992–93 fiscal years and future fiscal years, be funded from Item 4440-101-001 of the annual Budget Act.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

It is necessary that this act go into effect immediately so that the State Department of Mental Health may, at the earliest possible time, allocate replacement funds for the treatment of mentally ill persons who were treated at certain general acute care hospitals.

CHAPTER 1001

An act to add Section 1941.4 to the Civil Code, and to add Section 788 to the Public Utilities Code, relating to telephone service.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. The Legislature finds and declares that there are numerous problems associated with the implementation of the Federal Communications Commission's order to deregulate telephone inside wiring installation and maintenance, and that significant confusion has resulted with respect to the assumption of the responsibility for needed repairs.

The Legislature further finds and declares that there is a need to give direction to those Californians who do not own the property in which they dwell, because there are no specific guidelines governing the responsibility to assess the cost to install and maintain telephone wiring.

On October 24, 1990, the California Public Utilities Commission issued Decision No. 90-10-064 regarding regulatory treatment of several inside telephone wiring issues, and stated that "(w)e believe legislation should be passed to clarify the respective responsibilities of landlords and tenants, and we will work to that end."

SEC. 2. Section 1941.4 is added to the Civil Code, to read:

1941.4. The lessor of a building intended for the residential occupation of human beings shall be responsible for installing at least one usable telephone jack and for placing and maintaining the inside telephone wiring in good working order, shall ensure that the inside telephone wiring meets the applicable standards of the most recent National Electrical Code as adopted by the Electronic Industry Association, and shall make any required repairs. The lessor shall not restrict or interfere with access by the telephone utility to its

telephone network facilities up to the demarcation point separating the inside wiring.

"Inside telephone wiring" for purposes of this section, means that portion of the telephone wire that connects the telephone equipment at the customer's premises to the telephone network at a demarcation point determined by the telephone corporation in accordance with orders of the Public Utilities Commission.

SEC. 3. Section 788 is added to the Public Utilities Code, to read:

788. On or before March 1, 1992, and annually thereafter, every telephone corporation operating within a service area shall issue to each of its residential subscribers in the service area, in a manner and form approved by the commission, a notice containing the following information:

(a) An explanation of the responsibilities of the subscriber and telephone corporation in relation to the customer's inside telephone wiring, as that term is defined by and pursuant to Section 1941.4 of the Civil Code, including an explanation of lessor and tenant obligations.

(b) An explanation of the telephone corporation's procedures and charges for determining and notifying the subscriber of whether a malfunction in its telephone wire is located in the telephone corporation's telephone network, or is located in the subscriber's inside telephone wiring, including customer-provided equipment.

(c) If the telephone corporation offers any services to maintain or repair a subscriber's inside telephone wiring, a full description of the types of services offered, including the rates, charges, and conditions for these services, and whether those services are offered by nonutility providers.

CHAPTER 1002

An act to amend Section 29795 of the Elections Code, relating to elections.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 29795 of the Elections Code is amended to read:

29795. Every person who is entrusted with money or things of value for the purpose of promoting or defeating any initiative, referendum, or recall petition or any measure which has qualified for the ballot is a trustee of the money or things of value. If a person wrongfully appropriates the money or things of value to any use or purpose not in the due and lawful execution of the trust, the person shall be punishable by a fine not exceeding five thousand dollars

($5,000), or by imprisonment in the state prison for 16 months or two or three years or in a county jail not exceeding one year, or by both such fine and imprisonment. The following expenses are within the due and lawful execution of the trust:

(a) Securing signatures to initiative, referendum, or recall petitions.

(b) Circulating initiative, referendum, or recall petitions.

(c) Holding and conducting public meetings.

(d) Printing and circulating prior to an election:

(1) Specimen ballots.

(2) Handbills.

(3) Cards.

(4) Other papers.

(e) Advertising.

(f) Postage.

(g) Expressage.

(h) Telegraphing.

(i) Telephoning.

(j) All salaries and expenses of:

(1) Campaign managers.

(2) Lecturers.

(3) Solicitors.

(4) Agents.

(5) All persons employed in transacting business at headquarters or branch offices, if the business transacted is related to promoting or defeating an initiative, referendum, or recall petition or any measure which has qualified for the ballot.

(k) Maintaining headquarters and branch offices.

(*l*) Renting of rooms for the transaction of the business of an association.

(m) Attorney's fees and other costs in connection with litigation where the litigation arises directly out of any of the following:

(1) Activities related to promoting or defeating an initiative, referendum, or recall petition or any measure which has qualified for the ballot.

(2) The enactment, by the initiative process, of any ordinance, charter amendment, statute, or constitutional amendment.

(3) An election contest or recount.

(4) A violation of state or local campaign, disclosure, or election laws.

The amendment of this section by adding subdivision (m) thereto, made at the 1991–92 Regular Session of the Legislature, does not constitute a change in, but is declaratory of, the existing law.

Expenses for food, clothing, shelter and other personal needs of the trustee are not within the due and lawful execution of the trust. However, expenses for travel and necessary accommodations for the trustee are within the due and lawful execution of the trust, if the travel and accommodations are related to promoting or defeating an initiative, referendum, or recall petition or any measure that has

qualified for the ballot.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1003

An act to amend Section 473 of the Code of Civil Procedure, relating to civil actions.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 473 of the Code of Civil Procedure is amended to read:

473. The court may, in furtherance of justice, and on such terms as may be proper, allow a party to amend any pleading or proceeding by adding or striking out the name of any party, or by correcting a mistake in the name of a party, or a mistake in any other respect; and may, upon like terms, enlarge the time for answer or demurrer. The court may likewise, in its discretion, after notice to the adverse party, allow, upon such terms as may be just, an amendment to any pleading or proceeding in other particulars; and may upon like terms allow an answer to be made after the time limited by this code.

When it appears to the satisfaction of the court that the amendment renders it necessary, the court may postpone the trial, and may, when the postponement will by the amendment be rendered necessary, require, as a condition to the amendment, the payment to the adverse party of such costs as may be just.

The court may, upon such terms as may be just, relieve a party or his or her legal representative from a judgment, order, or other proceeding taken against him or her through his or her mistake, inadvertence, surprise, or excusable neglect. Application for this relief shall be accompanied by a copy of the answer or other pleading proposed to be filed therein, otherwise the application shall not be granted, and shall be made within a reasonable time, in no case exceeding six months, after the judgment, order or proceeding was taken; provided, however, that, in the case of a judgment, order or other proceeding determining the ownership or right to possession

of real or personal property, without extending the six-months period, when a notice in writing is personally served within the State of California both upon the party against whom the judgment, order or other proceeding has been taken, and upon his or her attorney of record, if any, notifying that party and his or her attorney of record, if any, that the order, judgment or other proceeding was taken against him or her and that any rights the party has to apply for relief under the provisions of Section 473 of the Code of Civil Procedure shall expire 90 days after service of the notice, then the application shall be made within 90 days after service of the notice upon the defaulting party or his or her attorney of record, if any, whichever service shall be later. No affidavit or declaration of merits shall be required of the moving party. Notwithstanding any other requirements of this section, the court shall, whenever an application for relief is made no more than six months after entry of judgment, is in proper form, and is accompanied by an attorney's sworn affidavit attesting to his or her mistake, inadvertence, surprise, or neglect, vacate any (1) resulting default entered by the clerk against his or her client, and which will result in entry of a default judgment, or (2) resulting default judgment entered against his or her client, unless the court finds that the default was not in fact caused by the attorney's mistake, inadvertence, surprise, or neglect. The court shall, whenever relief is granted based on an attorney's affidavit of fault, direct the attorney to pay reasonable compensatory legal fees and costs to opposing counsel or parties.

Whenever the court grants relief from a default or default judgment based on any of the provisions of this section, the court may: (1) impose a penalty of no greater than one thousand dollars ($1,000) upon an offending attorney or defaulting party, (2) direct that an offending attorney pay an amount no greater than one thousand dollars ($1,000) to the State Bar Client Security Fund or (3) grant such other relief as is appropriate.

However, where the court grants relief from a default or default judgment pursuant to this section based upon the affidavit of the defaulting party's attorney attesting to the attorney's mistake, inadvertence, surprise, or neglect, the relief shall not be made conditional upon the attorney's payment of compensatory legal fees or costs or monetary penalties imposed by the court or upon compliance with other sanctions ordered by the court.

The court may, upon motion of the injured party, or its own motion, correct clerical mistakes in its judgment or orders as entered, so as to conform to the judgment or order directed, and may, on motion of either party after notice to the other party, set aside any void judgment or order.

CHAPTER 1004

An act to amend Sections 3068.1 and 3070 of the Civil Code, and to amend Sections 22513 and 22658 of the Vehicle Code, relating to vehicles.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 3068.1 of the Civil Code is amended to read:

3068.1. (a) Every person has a lien dependent upon possession for the compensation to which the person is legally entitled for towing or storage of any vehicle subject to registration which has been authorized to be removed by a public agency. The lien is deemed to arise on the date of possession of the vehicle. Possession is deemed to arise when the vehicle is removed and is in transit. A person seeking to enforce a lien for the storage and safekeeping of a vehicle shall impose no charge exceeding that for one day of storage if, 24 hours or less after the vehicle is placed in storage, a request is made for the release of the vehicle. If the request is made more than 24 hours after the vehicle is placed in storage, charges may be imposed on a full, calendar-day basis for each day, or part thereof, that the vehicle is in storage.

(b) If the vehicle has been determined to have a value of over three hundred dollars ($300) pursuant to Section 22670 of the Vehicle Code, but not exceeding one thousand dollars ($1,000), the lien shall be satisfied pursuant to Section 3072. Lien-sale proceedings pursuant to this chapter shall commence within 15 days of the date the lien arises. No storage shall accrue beyond the 15-day period unless lien-sale proceedings have commenced.

(c) If the vehicle has been determined to have a value exceeding one thousand dollars ($1,000) pursuant to Section 22670 of the Vehicle Code, the lien shall be satisfied pursuant to Section 3071. The storage lien may be for a period not exceeding 60 days or, if an application for an authorization to conduct a lien-sale has been filed pursuant to Section 3071 within 30 days after the lien arises, a period not exceeding 120 days.

SEC. 2. Section 3070 of the Civil Code is amended to read:

3070. (a) Whenever the possessory lien upon any vehicle is lost through trick, fraud, or device, the repossession of the vehicle by the lienholder revives the possessory lien but any lien so revived is subordinate to any right, title, or interest of any person under any sale, transfer, encumbrance, lien, or other interest acquired or secured in good faith and for value between the time of the loss of possession and the time of repossession.

(b) It is a misdemeanor for any person to obtain possession of any vehicle or any part thereof subject to a lien pursuant to the provisions

of this chapter by trick, fraud, or device.

(c) It is a misdemeanor for any person claiming a lien on a vehicle to knowingly violate any provisions of this chapter.

(d) (1) Any person who improperly causes a vehicle to be towed or removed in order to create or acquire a lienhold interest enforceable under this chapter, or who violates subdivision (c), shall forfeit all claims for towing, removal, or storage, and shall be liable to the owner or lessee of the vehicle for the cost of removal, transportation, and storage, damages resulting from the towing, removal, transportation, or storage of the vehicle, attorneys' fees, and court costs.

(2) For purposes of this subdivision, "improperly causing a vehicle to be towed or removed" includes, but is not limited to, engaging in any of the following acts, the consequence of which is the towing or removal of a vehicle:

(A) Failure to comply with Section 10650, 10652.5, or 10655 of the Vehicle Code.

(B) Misrepresentation of information described in subdivision (b) of Section 10650 of the Vehicle Code.

(C) Failure to comply with Section 22658 of the Vehicle Code.

(D) Failure, when obtaining authorization for removal of a vehicle from a vehicle owner or operator or a law enforcement officer at the scene of an accident, to present a form for signature which plainly identifies all applicable towing and storage fees and charges by type and amount, and identifies the name and address of the storage facility unless a different storage facility is specified by the vehicle owner or operator, and to furnish a copy of the signed form to the owner, operator, or law enforcement officer.

(E) Failure by the owner or operator of a facility used for the storage of towed vehicles to display, in plain view at all cashiers' stations, a sign not less than 17 by 22 inches in size with lettering not less than one inch in height, disclosing all storage fees and charges in force, including the maximum daily storage rate.

(F) Undertaking repairs or service on a vehicle which is being stored at a facility used for the storage of towed vehicles without first providing a written estimate to, and obtaining the express written consent of, the owner of the vehicle.

(G) The promise to pay or the payment of money or other valuable consideration by any owner or operator of a towing service to the owner or operator of the premises from which the vehicle is towed or removed, for the privilege of towing or removing the vehicle.

SEC. 3. Section 22513 of the Vehicle Code is amended to read:

22513. (a) Except as provided in subdivision (b) or (c), the owner or operator of a tow truck who complies with the requirements of this code relating to tow trucks may stop or park the tow truck upon a highway for the purpose of rendering assistance to a disabled vehicle.

(b) It is a misdemeanor for the owner or operator of a tow truck

to stop at the scene of an accident or near a disabled vehicle for the purpose of soliciting an engagement for towing services, either directly or indirectly, or to furnish any towing services, unless summoned to the scene, requested to stop, or flagged down by the owner or operator of a disabled vehicle or requested to perform the service by a law enforcement officer or public agency pursuant to that agency's procedures.

(c) It is a misdemeanor for the owner or operator of a tow truck to move any vehicle from a highway, street, or public property without the express authorization of the owner or operator of the vehicle or a law enforcement officer or public agency pursuant to that agency's procedures, when the vehicle has been left unattended or when there is an injury as the result of an accident.

(d) This section shall not apply to the following:

(1) A vehicle owned or operated by, or under contract to, a motor club, as defined by Section 12142 of the Insurance Code, which stops to provide services for which compensation is neither requested nor received, provided that those services may not include towing other than that which may be necessary to remove the vehicle to the nearest safe shoulder. The owner or operator of such a vehicle may contact a law enforcement agency or other public agency on behalf of a motorist, but may not refer a motorist to a tow truck owner or operator, unless the motorist is a member of the motor club, the motorist is referred to a tow truck owner or operator under contract to the motor club, and, if there is a dispatch facility which services the area and is owned or operated by the motor club, the referral is made through that dispatch facility.

(2) A tow truck operator employed by a law enforcement agency or other public agency.

(3) A tow truck owner or operator acting under contract with a law enforcement or other public agency to abate abandoned vehicles, or to provide towing service or emergency road service to motorists while involved in freeway service patrol operations, to the extent authorized by law.

SEC. 4. Section 22658 of the Vehicle Code is amended to read:

22658. (a) Except as provided in Section 22658.2, the owner or person in lawful possession of any private property may, subsequent to notifying, by telephone or, if impractical, by the most expeditious means available, the city police or county sheriff, whichever is appropriate, cause the removal of a vehicle parked on the property to the nearest public garage under any of the following circumstances:

(1) There is displayed, in plain view at all entrances to the property, a sign not less than 17 by 22 inches in size, with lettering not less than one inch in height, prohibiting public parking and indicating that vehicles will be removed at the owner's expense, and containing the telephone number of the local traffic law enforcement agency, and the sign may also indicate that a citation may also be issued for the violation.

(2) The vehicle has been issued a notice of parking violation, and 96 hours have elapsed since the issuance of that notice.

(3) The vehicle is on private property and lacks an engine, transmission, wheels, tires, doors, windshield, or any other major part or equipment necessary to operate safely on the highways, the owner or person in lawful possession of the private property has notified the city police or county sheriff, as appropriate, and 24 hours have elapsed since that notification.

(4) The lot or parcel upon which the vehicle is parked is improved with a single-family dwelling.

(b) The person causing removal of the vehicle shall, if the person knows or is able to ascertain from the registration records of the Department of Motor Vehicles the name and address of the registered and legal owner of the vehicle, immediately give, or cause to be given, notice in writing to the registered and legal owner of the fact of the removal, the grounds for the removal, and indicate the place to which the vehicle has been removed. If the vehicle is stored in a public garage, a copy of the notice shall be given to the proprietor of the garage. The notice provided for in this section shall include the amount of mileage on the vehicle at the time of removal. If the person does not know and is not able to ascertain the name of the owner or for any other reason is unable to give the notice to the owner as provided in this section, the person causing removal of the vehicle shall comply with the requirements of subdivision (c) of Section 22853 relating to notice in the same manner as applicable to an officer removing a vehicle from private property.

(c) This section does not limit or affect any right or remedy which the owner or person in lawful possession of private property may have by virtue of other provisions of law authorizing the removal of a vehicle parked upon private property.

(d) The owner of a vehicle removed from private property pursuant to subdivision (a) may recover for any damage to the vehicle resulting from any intentional or negligent act of any person causing the removal of, or removing, the vehicle.

(e) Any owner or person in lawful possession of any private property, or an "association" pursuant to Section 22658.2, causing the removal of a vehicle parked on that property is liable for double the storage or towing charges whenever there has been a failure to comply with paragraph (1), (2), or (3) of subdivision (a) or to state the grounds for the removal of the vehicle if requested by the legal or registered owner of the vehicle as required by subdivision (f).

(f) Any owner or person in lawful possession of any private property, or an "association" pursuant to Section 22658.2, causing the removal of a vehicle parked on that property shall state the grounds for the removal of the vehicle if requested by the legal or registered owner of that vehicle. Any towing company that removes a vehicle from private property with the authorization of the property owner or the property owner's agent shall not be held responsible in any situation relating to the validity of the removal. Any towing company

that removes the vehicle under this section shall be responsible for (1) any damage to the vehicle in the transit and subsequent storage of the vehicle and (2) the removal of a vehicle other than the vehicle specified by the owner or other person in lawful possession of the private property.

(g) Possession of any vehicle under this section shall be deemed to arise when a vehicle is removed from private property and is in transit.

(h) A towing company may impose a charge of not more than one-half of the regular towing charge for the towing of a vehicle at the request of the owner of private property or that owner's agent pursuant to this section if the owner of the vehicle or the owner's agent returns to the vehicle before it is removed from the private property. The regular towing charge may only be imposed after the vehicle has been removed from the property and is in transit.

(i) A charge for towing or storage, or both, of a vehicle under this section is excessive if the charge is greater than that which would have been charged for towing or storage, or both, made at the request of a law enforcement agency under an agreement between the law enforcement agency and a towing company in the city or county in which is located the private property from which the vehicle was, or was attempted to be, removed.

If a request to release a vehicle is made within eight hours from the time the vehicle is brought into the storage facility, regardless of the calendar date, the storage charge shall be for only one day. Not more than one day's storage charge may be required for any vehicle released the same day that it is stored.

(j) Any person who charges a vehicle owner a towing, service, or storage charge at an excessive rate, as described in subdivision (i), is liable to the vehicle owner for four times the amount charged.

(k) Persons operating or in charge of any storage facility where vehicles are stored pursuant to this section shall accept a valid bank credit card or cash for payment of towing and storage by a registered owner or the owner's agent claiming the vehicle. In addition, persons operating or in charge of the storage facility shall have sufficient moneys on the premises to accommodate, and make change in, a reasonable monetary transaction.

Credit charges for towing and storage services shall comply with Section 1748.1 of the Civil Code. Law enforcement agencies may include the costs of providing for payment by credit when making agreements with towing companies as described in subdivision (i).

(*l*) (1) A towing company shall not remove a vehicle from private property without first obtaining written authorization from the property owner or lessee, or an employee or agent thereof, who shall be present at the time of removal. General authorization to remove vehicles at the towing company's discretion shall not be delegated to a towing company or its affiliates except in the case of a vehicle unlawfully parked within 15 feet of a fire hydrant or in a fire lane, or in a manner which interferes with any entrance to, or

exit from, the private property.

(2) If a towing company removes a vehicle without written authorization and that vehicle is unlawfully parked within 15 feet of a fire hydrant or in a fire lane, or in a manner which interferes with any entrance to, or exit from, the private property, the towing company shall take, prior to the removal of that vehicle, a photograph of the vehicle which clearly indicates that parking violation. The towing company shall keep one copy of the photograph taken pursuant to this paragraph, and shall present that photograph to the owner or an agent of the owner, when that person claims the vehicle.

(3) Any towing company, or any affiliate of a towing company, which removes a vehicle from private property without first obtaining written authorization from the property owner or lessee, or an employee or agent thereof, who is present at the time of removal, except as permitted by paragraph (1), is liable to the owner of the vehicle for four times the amount of the towing and storage charges, in addition to any applicable criminal penalty, for a violation of paragraph (1).

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1005

An act to amend Sections 10479, 10479.5, 10480, 10481, 10489.2, 10489.3, 10489.4, 10489.5, 10489.7, and 10489.8 of, to amend and renumber Section 10489.10 of, and to add Sections 10489.15 and 10489.95 to, the Insurance Code, relating to insurance, and making an appropriation therefor.

[Approved by Governor October 13, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 10479 of the Insurance Code is amended to read:

10479. The commissioner shall annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance policies and annuity and pure endowment

contracts of every admitted life insurer, except that in the case of an alien insurer such valuation shall be limited to its insurance transactions in the United States, and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest and methods (net level premium method or other) used in the calculation of such reserves. In calculating such reserves, he or she may use group methods and approximate averages for fractions of a year or otherwise. In lieu of the valuation of the reserves herein required of any foreign or alien insurer, he or she may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard herein provided and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the commissioner when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction.

SEC. 2. Section 10479.5 of the Insurance Code is amended to read:

10479.5. When the commissioner has valued the reserve liabilities of an insurer as provided by this article, he or she may upon request of the insurer issue his or her official certificate or certificates describing the reserve liability and the valuation thereof as he or she has determined. For issuing an original certificate, the commissioner shall require, in advance, a fee as specified by the commissioner in lawful money of the United States, plus the actual cost to the department of making the valuation on which the certificate is based including, but not limited to, the aggregate salaries computed on an hourly basis for the time actually spent thereon by all of the department personnel.

SEC. 3. Section 10480 of the Insurance Code is amended to read:

10480. On or before the first day of March of each year every domestic incorporated life insurer shall furnish the commissioner the necessary data for determining the valuation of all its policies outstanding on the last preceding thirty-first of December.

SEC. 4. Section 10481 of the Insurance Code is amended to read:

10481. Every admitted foreign life insurer shall, upon the written demand of the commissioner, furnish him or her, at such time as he designates, the requisite data for determining the valuation of all its policies then outstanding.

SEC. 5. Section 10489.15 is added to the Insurance Code, to read:

10489.15. (a) Every life and disability insurer doing business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by regulation are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported

amounts, and comply with applicable laws of this state. The commissioner, by regulation, shall define the specifics of this opinion and add any other items deemed to be necessary to its scope.

(b) (1) Every life and disability insurer, except as exempted by or pursuant to regulation, shall also annually include in the opinion required by subdivision (a), an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by regulation, when considered in light of the assets held by the insurer with respect to the reserves and related actuarial items, including, but not limited to, the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the insurer's obligations under the policies and contracts, including, but not limited to, the benefits under and expenses associated with the policies and contracts.

(2) The commissioner may provide by regulation for a transition period for establishing any higher reserves that the qualified actuary may deem necessary in order to render the opinion required by this section.

(c) The opinion required by either subdivision (a) or subdivision (b) shall be governed by all of the following provisions:

(1) The opinion shall be submitted with the annual statement reflecting the valuation of the reserve liabilities for each year ending on or after December 31, 1992.

(2) The opinion shall apply to all business in force, including individual and group life and disability insurance, in form and substance acceptable to the commissioner as specified by regulation.

(3) The opinion shall be based on standards adopted from time to time by the Actuarial Standards Board and on any additional standards that the commissioner may by regulation prescribe.

(4) In the case of an opinion required to be submitted by a foreign or alien insurer, the commissioner may accept the opinion filed by that insurer with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to an insurer domiciled in this state.

(5) For the purposes of this section, "qualified actuary" means a member in good standing of the American Academy of Actuaries who meets the requirements set forth in regulations of the commissioner.

(6) The qualified actuary shall be liable for damages to any person caused by his or her negligence or other tortious conduct for any act, error, omission, decision, or conduct with respect to the actuary's opinion.

(7) Disciplinary action by the commissioner against the insurer or the qualified actuary shall be defined in regulations by the commissioner.

(8) (A) Any memorandum or other material submitted by the insurer to the commissioner in support of the opinion shall be kept

confidential by the commissioner and shall not be made public, provided, however, that the memorandum or the other material may be released by the commissioner (i) to any party, with the written consent of the insurer, or (ii) to the American Academy of Actuaries upon the academy's written request and statement that the memorandum or the material is required for professional disciplinary proceedings and that the academy will observe procedures satisfactory to the commissioner to preserve the confidentiality of the memorandum or the other material. The entirety of the confidential memorandum shall lose its confidential status on the occurrence of any of the following events: the citation of any part of the confidential memorandum by the insurer in its marketing efforts, the citation of any part of the confidential memorandum by the insurer before any governmental agency other than a state insurance department, or the release of any part of the confidential memorandum by the insurer to any news medium.

(B) Notwithstanding subparagraph (A), the confidential memorandum shall be subject to subpoena (i) on the commissioner's consent, or (ii) after notice to the commissioner and all other interested parties and a hearing in which the superior court determines that (I) the need for the subpoena outweighs the interests of the insurer or actuary in preventing release of the confidential memorandum and the other material, and (II) the public interest and any ongoing investigation or proceeding conducted by the commissioner will not be unnecessarily jeopardized by compliance with the subpoena.

(d) The opinion required by subdivision (b) shall be governed by all of the following provisions:

(1) A memorandum, in form and substance acceptable to the commissioner as specified by regulation, shall be prepared to support each actuarial opinion.

(2) If the insurer fails to provide a supporting memorandum at the request of the commissioner within a period specified by regulation or the commissioner determines that the supporting memorandum provided by the insurer fails to meet the standards prescribed by the regulations or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the insurer to review the opinion and the basis for the opinion and prepare supporting memorandum as is required by the commissioner.

SEC. 6. Section 10489.2 of the Insurance Code is amended to read:

10489.2. Except as otherwise provided in Sections 10489.3, 10489.4, and 10489.95, the minimum standard for the valuation of all such policies and contracts shall be the commissioners reserve valuation methods defined in Sections 10489.5, 10489.6, 10489.9, and 10489.95, 3½ percent per annum interest, except that the interest specified in subdivisions (c) and (d) may be used for certain annuity and pure endowment contracts, 4 percent per annum interest for

such policies issued or contracts entered into on or after January 1, 1970, but prior to January 1, 1980, 5½ percent per annum interest may be used for single premium life insurance policies and 4½ percent per annum interest for all other such policies issued on or after January 1, 1980, and the following tables:

(a) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies—the Commissioners 1941 Standard Ordinary Mortality Table for such policies issued prior to the operative date of subdivision (a) of Section 10163.1, and the Commissioners 1958 Standard Ordinary Mortality Table for such policies issued on or after such operative date and prior to the operative date of Section 10163.2, provided that for any category of such policies issued on female risks, all modified net premiums and present values referred to in Sections 10489.5, and 10489.9 may be calculated, at the option of the insurer, according to an age not more than six years younger than the actual age of the insured; and for such policies issued on or after the operative date of Section 10163.2, as amended (i) the Commissioners 1980 Standard Ordinary Mortality Table, or (ii) at the election of the company for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors, or (iii) any ordinary mortality table, adopted after 1980 by the National Association of Insurance Commissioners, or its successor, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies.

(b) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies, the 1941 Standard Industrial Mortality Table for such policies issued prior to the operative date of subdivision (b) of Section 10163.1, and for such policies issued on or after such operative date the Commissioners 1961 Standard Industrial Mortality Table or any industrial mortality table, adopted after 1980 by the National Association of Insurance Commissioners, or its successor that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies.

(c) For individual annuity and pure endowment contracts issued prior to the compliance date of Section 10489.3, excluding any disability and accidental death benefits in such policies—the 1937 Standard Annuity Mortality Table or, at the option of the company, the Annuity Mortality Table for 1949, ultimate, or any modification of these tables approved by the commissioner. However, the minimum standard for such contracts issued from January 1, 1968, through December 31, 1968, with commencement of benefits deferred not more than one year from date of issue, may be, at the option of the company, 4 percent per annum interest, and for contracts issued from January 1, 1969, to the compliance date of Section 10489.3, with commencement of benefits deferred not more than 10 years from date of issue and with premiums payable in one

sum may be, at the option of the company, 5 percent per annum interest.

(d) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies—the Group Annuity Mortality Table for 1951, any modification of such table approved by the commissioner, or, at the option of the company, any of the tables or modifications of the tables specified for individual annuity and pure endowment contracts. However, the minimum standard for annuities and pure endowments purchased or to be purchased prior to the compliance date of Section 10489.3, under group annuity and pure endowment contracts with considerations received on or after January 1, 1968, through December 31, 1968, may be, at the option of the company, 4 percent per annum interest, and for annuities and pure endowments purchased or to be purchased prior to the compliance date of Section 10489.3, under group annuity and pure endowment contracts with considerations received from January 1, 1969, to the compliance date of Section 10489.3, may be at the option of the company, 5 percent per annum interest.

(e) For total and permanent disability benefits in or supplementary to ordinary policies or contracts—for policies or contracts issued on or after January 1, 1966, the tables of Period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries, with due regard to the type of benefit or any tables of disablement rates and termination rates, adopted after 1980 by the National Association of Insurance Commissioners, or its successor, that are approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies; for policies or contracts issued on or after January 1, 1961, and prior to January 1, 1966, either such tables or, at the option of the company, the Class (3) Disability Table (1926); and for policies issued prior to January 1, 1961, the Class (3) Disability Table (1926). Any such table shall for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(f) For accidental death benefits in or supplementary to policies for policies issued on or after January 1, 1966, the 1959 Accidental Death Benefits Table or any accidental death benefits table, adopted after 1980 by the National Association of Insurance Commissioners, or its successor, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies; for policies issued on or after January 1, 1961, and prior to January 1, 1966, either such table or, at the option of the company, the Inter-Company Double Indemnity Mortality Table; and for policies issued prior to January 1, 1961, the Inter-Company Double Indemnity Mortality Table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(g) For group life insurance, life insurance issued on the

substandard basis and other special benefits, such tables as may be approved by the commissioner.

(h) With the adoption of tables by the National Association of Insurance Commissioners after 1980, the commissioner may, by regulation, withdraw approval of the use of previously adopted tables replaced by the newly adopted tables.

SEC. 7. Section 10489.3 of the Insurance Code is amended to read:

10489.3. Except as provided in Section 10489.4, the minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the compliance date of Section 10489.3, and for all annuities and pure endowments purchased on or after the compliance date of Section 10489.3, under group annuity and pure endowment contracts, shall be the commissioners reserve valuation methods defined in Sections 10489.5 and 10489.6, and the following tables and interest rates:

(a) For individual annuity and pure endowment contracts issued prior to January 1, 1980, excluding any disability and accidental death benefits in such contracts, the Individual Annuity Mortality Table for 1971, or any modification of such table approved by the commissioner, and an interest rate of:

(1) Six percent per annum for all such contracts with commencement of benefits deferred not more than 10 years from date of issue and with premiums payable in one sum.

(2) Four percent per annum for all other such contracts.

(b) For individual single premium immediate annuity contracts issued on or after January 1, 1980, excluding any disability and accidental death benefits in such contracts, the Individual Annuity Mortality Table for 1971 or any individual annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, or its successor, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such contracts, or any modification of these tables approved by the commissioner, and 7½ percent per annum interest.

(c) For individual annuity and pure endowment contracts issued on or after January 1, 1980, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in such contracts, the individual Annuity Mortality Table for 1971 or any individual annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, or its successor, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such contracts, or any modification of these tables approved by the commissioner, and 5½ percent per annum interest for single premium deferred annuity and pure endowment contracts and 4½ percent per annum interest for all other such individual annuity and pure endowment contracts.

(d) For all annuities and pure endowments purchased prior to

January 1, 1980, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the Group Annuity Mortality Table for 1971, or any modification of this table approved by the commissioner, and 6 percent per annum interest.

(e) For all annuities and pure endowments purchased on or after January 1, 1980, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the Group Annuity Mortality Table for 1971 or any group annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, or its successor, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such annuities and pure endowments, or any modification of these tables approved by the commissioner, and 7½ percent per annum interest.

All individual annuity and pure endowment contracts entered into prior to January 1, 1980, and all annuities and pure endowments purchased prior to January 1, 1980, under group annuity and pure endowment contracts shall remain subject to the provisions of Article 3A (commencing with Section 10489.1) as it existed prior to January 1, 1980.

(f) With the adoption of tables by the National Association of Insurance Commissioners after 1980, the commissioner may, by regulation, withdraw approval of the use of previously adopted tables replaced by the newly adopted tables.

SEC. 8. Section 10489.4 of the Insurance Code is amended to read:

10489.4. (a) The interest rates used in determining the minimum standard for the valuation of all life insurance policies issued in a particular calendar year, on or after the operative date of Section 10163.2, all individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1982, all annuities and pure endowments purchased in a particular calendar year on or after January 1, 1982, under group annuity and pure endowment contracts, and the net increase, if any, in a particular calendar year after January 1, 1982, in amounts held under guaranteed interest contracts shall be the calendar year statutory valuation interest rates as defined in subdivision (b).

(b) (1) The calendar year statutory valuation interest rates, I, shall be determined as follows and the results rounded to the nearer one-quarter of 1 percent:

(A) For life insurance:

$$I = .03 + W\ (R_1 - .03) + W/2\ (R_2 - .09)$$

(B) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options:

$$I = .03 + W (R - .03)$$

Where
R_1 is the lesser of R and .09,
R_2 is the greater of R and .09,
R is the reference interest rate defined in subdivision (d) or (e) of this section, and
W is the weighting factor defined in subdivision (c) of this section.

(C) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, except as stated in (B), the formula for life insurance stated in (A) shall apply to annuities and guaranteed interest contracts with guarantee durations in excess of 10 years and the formula for single premium immediate annuities stated in (B) shall apply to annuities and guaranteed interest contracts with guarantee duration of 10 years or less.

(D) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single premium immediate annuities stated in (B) shall apply.

(E) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change-in-fund basis, the formula for single premium immediate annuities stated in (B) shall apply.

(2) However, if the calendar year statutory valuation interest rate for any life insurance policies issued in any calendar year determined without reference to this sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than one-half of 1 percent, the calendar year statutory valuation interest rate for such life insurance policies shall be equal to the corresponding actual rate for the immediately preceding calendar year. For purposes of applying the immediately preceding sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for 1980 (using the reference interest rate defined for 1979) and shall be determined for each subsequent calendar year regardless of the operative date of Section 10163.2.

(c) Weighting Factors.

(1) The weighting factors referred to in the formulas stated above are given in the following tables:

(A) Weighting Factors for Life Insurance:

Guarantee Duration (Years)	Weighting Factors
10 or less	.50
More than 10, but not more than 20	.45
More than 20	.35

For life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates or nonforfeiture values or both which are guaranteed in the original policy.

(B) Weighting factor for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options:

.80

(C) Weighting factors for other annuities and for guaranteed interest contracts, except as stated in (B), shall be as specified in tables (i), (ii), and (iii) below, according to the rules and definitions in (iv), (v), and (vi):

(i) For annuities and guaranteed interest contracts valued on an issue year basis:

Guarantee Duration (Years)	Weighting Factor for Plan Type A	B	C
5 or less	.80	.60	.50
More than 5, but not more than 10	.75	.60	.50
More than 10, but not more than 20	.65	.50	.45
More than 20	.45	.35	.35

(ii) For annuities and guaranteed interest contracts valued on a change-in-fund basis, the factors shown in (i) above increased by:	.15	.25	.05

(iii) For annuities and guaranteed interest contracts valued on an issue year basis (other than those with no cash settlement options) which do not guarantee interest on considerations received more than one year after issue or purchase and for annuities and guaranteed interest contracts valued on a change-in-fund basis which do not guarantee interest rates on considera-

tions received more than 12 months beyond the valuation date, the factors shown in (i) or derived in (ii) increased by:	.05	.05	.05

(iv) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guarantee duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of 20 years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guarantee duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

(v) Plan type as used in the above tables is defined as follows:

Plan Type A: At any time policyholder may withdraw funds only (1) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or (2) without such adjustment but in installments over five years or more, or (3) as an immediate life annuity, or (4) no withdrawal permitted.

Plan Type B: Before expiration of the interest rate guarantee, policyholder may withdraw funds only (1) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or (2) without such adjustment but in installments over five years or more, or (3) no withdrawal permitted. At the end of interest rate guarantee, funds may be withdrawn without such adjustment in a single sum or installments over less than five years.

Plan Type C: Policyholder may withdraw funds before expiration of interest rate guarantee in a single sum or installments over less than five years either (1) without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or (2) subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

(vi) A company may elect to value guaranteed interest contracts with cash settlement options and annuities with cash settlement options on either an issue year basis or on a change-in-fund basis. Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options must be valued on an issue year basis. As used in this section, an issue year basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract, and the change-in-fund basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the

annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

(d) The reference interest rate referred to in subdivision (b) of this section shall be defined as follows:

(1) For all life insurance, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year next preceding the year of issue, of the Monthly Average of the Composite Yield on Seasoned Corporate Bonds, as published by Moody's Investors Service, Inc.

(2) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or year of purchase, of the Monthly Average of the Composite Yield on Seasoned Corporate Bonds, as published by Moody's Investors Service, Inc.

(3) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year-of-issue basis, except as stated in (2) above, with guarantee duration in excess of 10 years, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of the Monthly Average of the Composite Yield on Seasoned Corporate Bonds, as published by Moody's Investors Service, Inc.

(4) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year-of-issue basis, except as stated in (2) above, with guarantee duration of 10 years or less, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of the Monthly Average of the Composite Yield on Seasoned Corporate Bonds, as published by Moody's Investors Service, Inc.

(5) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of the Monthly Average of the Composite Yield on Seasoned Corporate Bonds, as published by Moody's Investors Service, Inc.

(6) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change-in-fund basis, except as stated in (2) above, the average over a period of 12 months, ending on June 30 of the calendar year of the change in the fund, of the Monthly Average of the Composite Yield on Seasoned Corporate Bonds, as published by Moody's Investors Service, Inc.

(e) In the event that the Monthly Average of the Composite Yield on Seasoned Corporate Bonds is no longer published by Moody's Investors Service, Inc., or in the event that the National Association of Insurance Commissioners, or its successor, determines that Moody's Corporate Bond Yield Average—Monthly Average

Corporates as published by Moody's Investors Service, Inc. is no longer appropriate for the determination of the reference interest rate, then an alternative method for determination of the reference interest rate, which is adopted by the National Association of Insurance Commissioners, or its successor, and approved by regulation promulgated by the commissioner, may be substituted.

(f) This section shall apply to all certificates and contracts issued by a fraternal benefit society.

SEC. 9. Section 10489.5 of the Insurance Code is amended to read:

10489.5. Except as otherwise provided in Sections 10489.6, 10489.9, and 10489.95, reserves according to the commissioners reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of (a) of (b), as follows:

(a) A net level annual premium equal to the present value, at the date of issue of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due; except that such net level annual premium shall not exceed the net level annual premium, on the 19-year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such policy.

(b) A net one-year term premium for such benefits provided for in the first policy year.

Provided that for any life insurance policy issued on or after January 1, 1986, for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the reserve according to the commissioners reserve valuation method as of any policy anniversary occurring on or before the assumed ending date defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than such excess premium shall, except as otherwise provided in Section 10489.9, be the greater of the reserve as of such policy anniversary calculated as described in the first paragraph of this section and the reserve as of such policy anniversary calculated as described in the first paragraph

of this section, but with (i) the value defined in subparagraph (a) of that paragraph being reduced by 15 percent of the amount of such excess first year premium, (ii) all present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date, (iii) the policy being assumed to mature on such date as an endowment, and (iv) the cash surrender value provided on such date being considered as an endowment benefit. In making the above comparison the mortality and interest bases stated in Sections 10489.2 and 10489.4 shall be used.

Reserves according to the commissioners reserve valuation method for (1) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums, (2) group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended; (3) disability and accidental death benefits in all policies and contracts; and (4) all other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts, shall be calculated by a method consistent with the principles of the preceding paragraphs of this section, except that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums.

SEC. 10. Section 10489.7 of the Insurance Code is amended to read:

10489.7. (a) In no event shall an insurer's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, be less than the aggregate reserves calculated in accordance with the methods set forth in Sections 10489.5, 10489.6, 10489.9, and 10489.93 and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

(b) In no event shall the aggregate reserves for all policies, contracts, and benefits be less than the aggregate reserves determined by the qualified actuary to be necessary to render the opinion required by Section 10489.15.

SEC. 11. Section 10489.8 of the Insurance Code is amended to read:

10489.8. Reserves for any category of policies, contracts or benefits as established by the commissioner may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be higher than the

corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein.

Any such company which at any time shall have adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard provided in this article may, with the approval of the commissioner, adopt any lower standard of valuation, but not lower than the minimum provided in this article. However, for the purposes of this section, the holding of additional reserves previously determined by a qualified actuary to be necessary to render the opinion required by Section 10489.15 shall not be deemed to be the adoption of a higher standard of valuation.

SEC. 12. Section 10489.10 of the Insurance Code is amended and renumbered to read:

10489.93. In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience, or in the case of any plan of life insurance or annuity which is of such a nature that the minimum reserves cannot be determined by the methods described in Sections 10489.5, 10489.6, and 10489.9, the reserves which are held under any such plan must:

(a) Be appropriate in relation to the benefits and the pattern of premiums for that plan; and

(b) Be computed by a method which is consistent with the principles of this Standard Valuation Law, as determined by regulations promulgated by the commissioner.

(c) Nothing contained in this section shall be construed as requiring or providing for the prior approval by the commissioner of individual life insurance policy forms prior to the time such policy forms are marketed, issued, delivered, or used in this state.

Notwithstanding any other provision in the laws of this state, any policy, contract, or certificate providing life insurance under any such plan must be filed with the commissioner before it can be marketed, issued, delivered or used in this state.

SEC. 13. Section 10489.95 is added to the Insurance Code, to read:

10489.95. The commissioner shall adopt a regulation concerning the minimum standards applicable to the valuation of disability insurance.

CHAPTER 1006

An act to amend Sections 1156, 1156.5, 1163, 1165, and 1190 of the Harbors and Navigation Code, relating to pilots, and making an appropriation therefor.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 1156 of the Harbors and Navigation Code is amended to read:

1156. The board may appoint, fix the compensation of, and from time to time adjust the compensation of, an executive director who is exempt from the civil service laws, an administrative assistant/secretary, and other employees as may be necessary.

SEC. 2. Section 1156.5 of the Harbors and Navigation Code, as amended by Chapter 282 of the Statutes of 1991, is amended to read:

1156.5. The executive director shall serve at the pleasure of the board and shall be under the direct supervision of the board. The term of office to which the executive director is appointed is five years. The first person appointed to the position of executive director shall be initially appointed by a vote of at least four members of the board. Following the initial appointment, the executive director and subsequent executive directors may be appointed, reappointed, or removed from office only by a vote of at least four members of the board, including at least one industry member, one pilot member, and one public member. The board may delegate to the executive director any of the following functions:

(a) The administration of personnel employed by the board, in accordance with the civil service laws.

(b) To serve as treasurer of the board and keep, maintain, and provide the board with all statements of accounts, records of receipts, and disbursements of the board in accordance with law.

(c) The issuance and countersigning of licenses, which shall also be signed by the president of the board.

(d) The administration of matters and the maintenance of files pertaining to actions taken against licenses issued by the board.

(e) The investigation of and reporting on a navigational incident or other matter for which a license issued by the board may be revoked or suspended.

(f) To work with the pilot evaluation committee to recommend to the board improvements in the pilot training program.

(g) Under the direction of the board, to coordinate with other state and federal agencies charged with protecting the environment and with the oil and hazardous chemical shipping industry.

(h) Any other function, task, or duty as may reasonably be assigned by the president of the board, including, but not limited to,

performing research and obtaining documents and other evidence for board activities, including rate hearings.

SEC. 3. Section 1163 of the Harbors and Navigation Code is amended to read:

1163. (a) (1) Each retired or disabled pilot shall receive, as a monthly pension, that amount which is one hundred forty-four dollars ($144) multiplied by the number of full years of service he or she performed as a pilot licensed under this division.

(2) A pilot who retires or becomes disabled shall not begin to receive his or her pension until the benefit year next following the date on which he or she retires or becomes disabled.

(3) No retired pilot shall receive benefits pursuant to the pension plan in any benefit year unless his or her resignation as an active pilot specifying a proposed date of retirement was submitted, in writing, to the board, prior to December if his or her retirement is to be effective the first day of the following January or prior to June if his or her retirement is to be effective the first day of the following July. His or her resignation shall become effective on either January 1 or July 1 as specified in the written resignation.

(4) If a retired or disabled pilot who is receiving a pension dies without a surviving spouse, the successor in interest shall receive the proceeds of the pension for the remainder of the benefit year, after which time it shall cease.

(b) (1) The surviving spouse of a deceased pilot who would be eligible for a pension pursuant to subdivision (c) of Section 1164 shall receive, as a monthly pension, three-fourths of the amount that his or her deceased spouse would have received as a pension pursuant to this section had he or she lived.

(2) If a retired or disabled pilot receiving a pension dies, the surviving spouse shall continue to receive the full pension to which his or her deceased spouse was entitled for the balance of the benefit year, after which he or she shall receive the amount specified in paragraph (1).

(3) When a surviving spouse receiving a pension dies, his or her successor in interest shall receive the proceeds of the pension for the remainder of the benefit year, after which time it shall cease.

(c) For the purposes of the computations described in paragraph (1) of subdivision (a), six months or more of service by a pilot shall be considered a full year.

SEC. 4. Section 1165 of the Harbors and Navigation Code is amended to read:

1165. (a) In addition to, and concurrently with, the basic pilotage rate described in Section 1190, a charge shall be levied for pilotage services at a rate necessary to provide the benefits to be paid out pursuant to the pension plan. The additional rate shall be determined as follows:

(1) On December 1 and June 1 of each year, the number of persons eligible to receive benefits under the plan, their identities, the amount each shall be entitled to receive, and the total amount

to be paid out to all such persons during each month of the next six-month period shall be determined by the fiduciary agent.

(2) After the total amount to be paid out monthly under the plan has been determined, the rate necessary to provide that amount each month shall be calculated. The rate shall be based upon the volume of shipping, in gross registered tons, handled by pilots licensed under this division for the 12-month periods ending the previous September 30 and the previous March 31, respectively. The rate shall be expressed as mills per gross registered ton and shall be calculated to the nearest one-hundredth of a mill.

(3) Based on the above calculations, if the total amount to be paid out yearly exceeds one million dollars ($1,000,000), the rate shall be established so that the pension plan shall produce maximum revenues of one million dollars ($1,000,000) per year, and the benefits shall be reduced accordingly.

(b) The rate determined pursuant to paragraphs (1), (2), and (3) of subdivision (a) shall become effective on January 1 of the following year with respect to the September 30 calculations, and on July 1 of that year with respect to the March 31 calculations, and shall be in effect for the succeeding six-month period.

(c) Revenues for any month or year are the amounts to be received pursuant to the pension plan for pilotages during that month or year.

(d) Benefits pursuant to the new rate calculations shall be paid commencing in February and August of each year and shall continue through, and include, July of the same year and January of the following year. The period during which benefits are paid is the benefit year.

SEC. 5. Section 1190 of the Harbors and Navigation Code is amended to read:

1190. (a) Every vessel spoken inward or outward bound, shall pay the following rate of bar pilotage through the Golden Gate and into or out of the Bays of San Francisco, San Pablo, and Suisun:

(1) Seven dollars and thirty-five cents ($7.35) per draft foot of the vessel's deepest draft and fractions of a foot pro rata, and an additional charge of 49.20 mills per high gross registered ton. This additional charge of 49.20 mills may be augmented in accordance with either or both of the following:

(A) There shall be an incremental rate of 0.68 additional mill for each pilot appointed by the board in excess of 56 pilots.

(B) There shall be an incremental rate of 0.46 additional mill for each one hundred thousand dollars ($100,000) authorized by the board specifically for the pilot's cost of obtaining a new pilot boat.

(2) A minimum charge for bar pilotage shall be six hundred dollars ($600) for each vessel piloted.

(3) The vessel's deepest draft shall be the maximum draft attained, on a stillwater basis, at any part of the vessel during the course of such transit inward or outward.

(b) The rate specified in subdivision (a) shall apply only to a

pilotage which passes through the Golden Gate to or from the high seas to or from a berth within an area bounded by the Southern Pacific Bridge to the north and Hunter's Point to the south. The rate for pilotage to or from the high seas to or from a point past the Southern Pacific Bridge or Hunter's Point shall include a movement fee in addition to the basic bar pilotage rate as specified by the board pursuant to Section 1191.

(c) The rate established in paragraph (1) of subdivision (a) shall be for a trip from the high seas to dock or from the dock to high seas. The rate specified in Section 1191 shall not be charged by pilots for docking and undocking vessels. This subdivision does not apply to the rates charged by inland pilots for their services.

(d) The board shall determine the number of pilots to be licensed based on the 1986 manpower study adopted by the board.

CHAPTER 1007

An act to repeal Section 895 of the Civil Code, and to add and repeal Section 1161.2 of the Code of Civil Procedure, relating to real property.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. (a) The Legislature finds and declares the following:

(1) It is the policy of the State of California to promote open access to public records. It is in the interest of the public to assure, to the greatest extent possible, that there is open public access to court records, including civil case files.

(2) It is the policy of this state that access to public records be limited or restricted only under compelling circumstances.

(3) There exists in the State of California a crisis due to unscrupulous eviction defense services which utilize records of court filings in civil cases to solicit and defraud tenants.

(4) Unscrupulous eviction defense services function by reviewing the previous day's filings of unlawful detainer actions each day. Representatives arrive at the tenant's door long before the tenant is served with the summons and complaint. Clients are solicited with promises of two to seven months of rent-free living. Fraudulent bankruptcies and false "Arrieta" claims are often filed, without the client's informed consent. Tenants are rarely advised of their rights and legal options.

(5) Unscrupulous eviction defense services cause delay in evictions by filing defective or fraudulent pleadings which may eventually result in unfair judgments against tenants. The result of

these actions may cause economic harm to landlords, lead to increased rental rates, and contribute to increases in homelessness and other economic hardships for both landlords and tenants.

(6) There are many law firms and organizations, such as those funded by the federal Legal Services Corporation, which provide competent, thorough, and ethical legal advice and representation to tenants. These organizations do not find it necessary to solicit clients at their homes but instead respond to requests for legal assistance.

(7) Because of the proliferation of unscrupulous eviction defense services and the labor-intensive nature of criminal investigations, criminal prosecution has not successfully deterred this activity.

(8) The denial of public access to court files in unlawful detainer cases for the first 30 days after the complaint is filed would have a minimal impact on the public's right to inspect court records. However, it would be a significant impediment to unscrupulous eviction defense services whose ability to recruit clients depends upon early access to the tenant at a time when the tenant has not had the opportunity to seek proper legal counseling.

(9) The following are goals of the Legislature, in enacting this act:

(A) To reduce the number of pleadings and "Arrieta" claims which are incorrectly completed or contain false or fraudulent information.

(B) To reduce the number of bankruptcy claims which are filed while an unlawful detainer action is pending against the person filing for bankruptcy.

(C) To ensure that those with good cause, including, but not limited to, newspaper publishers, continue to have reasonable access to court files.

(b) It is the intent of the Legislature to create a narrow exception to the important policy that the public should have free and open access to court files. Because of the crisis caused by unscrupulous eviction defense services, it is necessary to restrict public access to files during the first 30 days after an unlawful detainer action is filed. It is the further intent of the Legislature that this exception not be expanded to cover long periods of time and that it not be extended to cover other types of cases.

SEC. 2. Section 895 of the Civil Code is repealed.

SEC. 3. Section 1161.2 is added to the Code of Civil Procedure, to read:

1161.2. (a) In any case filed under this chapter, the clerk of a court shall not allow access to the court file, index, register of actions, or other court records until 30 days following the date the complaint is filed, except pursuant to an ex parte court order upon a showing of good cause therefor. However, the clerk of the court shall allow access to the court file to a party in the action, an attorney of a party in the action, or any other person who (1) provides to the clerk the names of at least one plaintiff, one defendant, and the address, including the apartment, unit, or space number, if applicable, of the subject premises, or (2) provides to the clerk the name of one of the

parties or the case number and can establish through proper identification that he or she resides at the subject premises.

(b) For purposes of this section "good cause" includes, but is not limited to, the gathering of newsworthy facts by a person described in Section 1070 of the Evidence Code. It is the intent of the Legislature that a simple procedure be established to request the ex parte order described in subdivision (a).

(c) Upon the filing of any case so restricted, the clerk of the court shall mail notice to each defendant named in the action. The notice shall be mailed to the address provided in the complaint. The notice shall contain a statement that an unlawful detainer complaint (eviction action) has been filed naming that party as a defendant, and that access to the court file will be delayed for 30 days except to a party, an attorney for one of the parties, or any other person who (1) provides to the clerk the names of at least one plaintiff and one defendant in the action and provides to the clerk the address, including any applicable apartment, unit, or space number, of the subject premises, or (2) provides to the clerk the name of one of the parties in the action or the case number and can establish through proper identification that he or she lives at the subject premises. The notice shall also contain a statement that access to the court index, register of actions, or other records is not permitted until 30 days after the complaint is filed, except pursuant to an ex parte order upon a showing of good cause therefor. The notice shall contain on its face the name and phone number of the county bar association and the name and phone number of an office funded by the federal Legal Services Corporation which provides legal services to low-income persons in the county in which the action is filed. The notice shall state that these numbers may be called for legal advice regarding the case. The notice shall be issued between 24 and 48 hours of the filing of the complaint, excluding weekends and holidays. One copy of the notice shall be addressed to "all occupants" and mailed separately to the subject premises. The notice shall not constitute service of the summons and complaint.

(d) Notwithstanding any other provision of law, the court shall, upon adoption of a resolution by the board of supervisors requiring such a fee, charge an additional fee for filing a first appearance by the plaintiff in an amount equal in the aggregate to the actual cost of complying with this section, but which shall not exceed a maximum of four dollars ($4). This fee shall be included as part of the total filing fee for actions filed under this chapter.

(e) This section shall operate as a three-year pilot project applicable only to the municipal courts in the San Diego Judicial District and the Counties of Los Angeles, Orange, and Alameda.

(f) (1) The Judicial Council of California shall consult with the presiding judges of the municipal courts in the pilot counties after two years to determine if there has been a reduction in the filing of false or defective pleadings in those courts. The Judicial Council shall also consult with the presiding judges of the bankruptcy courts in

those jurisdictions to determine if the pilot project has resulted in a decrease in the filing of bankruptcies by tenant defense services. The Judicial Council shall report its findings and recommendations to the Legislature on or before February 1, 1994.

(2) The pilot project shall be deemed a success if it does both of the following:

(A) Reduces, in the view of presiding judges of the municipal courts involved in the project, the number of pleadings or "Arrieta" claims which are incorrectly completed or contain false or fraudulent information by at least 15 percent, or reduces the number of bankruptcy cases which are filed while an unlawful detainer action is pending against the person who files the bankruptcy by at least 15 percent.

(B) Ensures that those with good cause, including, but not limited to, newspaper publishers have access to files.

The Judicial Council shall examine the extent to which requests for access to files are granted or denied, and, if denied, the reason for the denial of access.

(g) This section shall be repealed on January 1, 1995 unless a later enacted statute, which is enacted before that date, deletes or extends that date.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1008

An act to amend Sections 1871 and 1871.1 of, and to add Sections 1872.85, 1872.95 to, the Insurance Code, relating to insurance.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 1871 of the Insurance Code, as added by Chapter 116 of the Statutes of 1991, is amended to read:

1871. The Legislature finds and declares as follows:

(a) That the business of insurance involves many transactions which have potential for abuse and illegal activities. There are numerous law enforcement agencies on the state and local levels charged with the responsibility for investigating and prosecuting fraudulent activity. This chapter is intended to permit the full

utilization of the expertise of the commissioner and the department so that they may more effectively investigate and discover insurance frauds, halt fraudulent activities, and assist and receive assistance from federal, state, local, and administrative law enforcement agencies in prosecution of persons who are parties in insurance frauds.

(b) That insurance fraud is a particular problem for automobile policyholders; fraudulent activities account for 15 to 20 percent of all auto insurance payments. Automobile insurance fraud is the biggest and fastest growing segment of insurance fraud and contributes substantially to the high cost of automobile insurance with particular significance in urban areas.

(c) That prevention of automobile insurance fraud will significantly reduce the incidence of severity and automobile insurance claim payments and will therefore produce a commensurate reduction in automobile insurance premiums.

(d) That workers' compensation fraud harms employers by contributing to the increasingly high cost of workers' compensation insurance and self-insurance and harms employees by undermining the perceived legitimacy of all workers' compensation claims.

(e) That prevention of workers' compensation insurance fraud may reduce the number of workers' compensation claims and claim payments thereby producing a commensurate reduction in workers' compensation costs. Prevention of workers' compensation insurance fraud will assist in restoring confidence and faith in the workers' compensation system, and will facilitate expedient and full compensation for employees injured at the workplace.

(f) That health insurance fraud is a particular problem for health insurance policyholders. Although there are no precise figures, it is believed that fraudulent activities account for billions of dollars annually in added health care costs nationally. Health care fraud causes losses in premium dollars and increases health care costs unnecessarily.

SEC. 2. Section 1871.1 of the Insurance Code is amended to read:

1871.1. (a) It is unlawful to do any of the following:

(1) Knowingly present or cause to be presented any false or fraudulent claim for the payment of a loss, including payment of a loss under a contract of insurance.

(2) Knowingly present multiple claims for the same loss or injury, including presentation of multiple claims to more than one insurer, with an intent to defraud.

(3) Knowingly cause or participate in a vehicular collision, or any other vehicular accident, for the purpose of presenting any false or fraudulent claim.

(4) Knowingly present a false or fraudulent claim for the payments of a loss for theft, destruction, damage, or conversion of a motor vehicle, a motor vehicle part, or contents of a motor vehicle.

(5) Knowingly prepare, make, or subscribe any writing, with intent to present or use the same, or to allow it to be presented in

support of any false or fraudulent claim.

(6) Knowingly assist, abet, solicit, or conspire with (A) any person who knowingly presents any false or fraudulent claim for the payment of a loss, including payment of a loss under a contract of insurance; (B) any person who knowingly presents multiple claims for the same loss or injury, including presentation of multiple claims to more than one insurer, with an intent to defraud; (C) any person who knowingly causes or participates in a vehicular collision, or any other vehicular accident, for the purpose of presenting any false or fraudulent claim; and (D) any person who knowingly prepares, makes, or subscribes any writing, with the intent to present or use the same, or to allow it to be presented in support on any such claim.

(7) Knowingly make or cause to be made any false or fraudulent claim for payment of a health care benefit.

(8) Knowingly submitting a claim for a health care benefit which was not used by, or on behalf of, the claimant.

(9) Knowingly present multiple claims for payment of the same health care benefit with an intent to defraud.

(10) Knowingly present for payment any undercharges for health care benefits on behalf of a specific claimant unless any known overcharges for health care benefits for that claimant are presented for reconciliation at that same time.

(b) (1) Every person who violates paragraph (1), (2), (3), (4), (5), or (6) of subdivision (a) of this section is punishable by imprisonment in the state prison, for two, three, or five years, or by a fine not exceeding fifty thousand dollars ($50,000), or by both, unless the value of the fraud exceeds fifty thousand dollars ($50,000), in which event the fine may not exceed the value of the fraud.

(2) Every person who violates paragraph (7), (8), (9), or (10) of subdivision (a) of this section is guilty of a public offense.

(A) Where the claim or amount at issue exceeds four hundred dollars ($400), the offense upon conviction is punishable by imprisonment in the state prison for two, three, or five years, or by a fine not exceeding fifty thousand dollars ($50,000), or by both, unless the value of the fraud exceeds fifty thousand dollars ($50,000), in which event the fine may not exceed the value of the fraud, or by imprisonment in a county jail not to exceed one year or a fine of not more than one thousand dollars ($1,000), or both such fine and imprisonment.

(B) Where the claim or amount at issue is four hundred dollars ($400) or less, the offense is punishable by imprisonment in a county jail not to exceed six months or a fine of not more than one thousand dollars ($1,000), or both such fine and imprisonment unless the aggregate amount of the claims or amount at issue exceeds four hundred dollars ($400) in any 12 consecutive month period, in which case such claims or amounts may be charged as in subparagraph (A).

(c) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of a sentence be suspended for, any adult person convicted of felony violations of

this section who has been previously convicted of felony violations of this section as an adult under charges separately brought and tried two or more times. The existence of any fact which would make a person ineligible for probation under this subdivision shall be alleged in the information or indictment, and either admitted by the defendant in an open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

Except where the existence of such fact was not admitted or found to be true or the court finds that a prior felony conviction was invalid, the court shall not strike or dismiss any prior felony convictions alleged in the information or indictment.

This subdivision does not prohibit the adjournment of criminal proceedings pursuant to Division 3 (commencing with Section 3000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(d) Any person who violates subdivision (a) and who has a prior felony conviction of the offense set forth in that subdivision or in Section 548 of the Penal Code, shall receive a two-year enhancement for each prior felony conviction in addition to the sentence provided in subdivision (b). The existence of any fact which would subject a person to a penalty enhancement shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(e) This section shall not be construed to preclude the applicability of any other provision of criminal law that applies or may apply to any transaction.

SEC. 3. Section 1872.85 is added to the Insurance Code, to read:

1872.85. Every admitted disability insurer or other entity liable for any loss due to health insurance fraud doing business in this state shall pay an annual fee to be determined by the commissioner, but not to exceed ten cents ($0.10) annually for each insured under an individual or group insurance policy it issues in this state, in order to fund increased investigation and prosecution of fraudulent health insurance claims. After incidental expenses, 50 percent of those funds received from the assessment fee per insured shall be distributed to the Bureau of Fraudulent Claims of the Department of Insurance for enhanced investigative efforts, and 50 percent of the funds shall be distributed to local district attorneys, according to population, for investigation and prosecution of health insurance fraud cases. The funds received under this section shall be deposited into the Insurance Fund and be expended and distributed when appropriated by the Legislature.

In the course of its investigation, the Bureau of Fraudulent Claims shall aggressively pursue all reported incidents of probable fraud and, in addition, shall forward to the appropriate disciplinary body

the names of any individuals licensed under the Business and Professions Code who are convicted of engaging in fraudulent activity along with all relevant supporting evidence.

SEC. 4. Section 1872.95 is added to the Insurance Code, to read:

1872.95. The commissioner shall prepare an annual report, which shall be a public record, with respect to the receipts, expenditures, and activities of the Bureau of Fraudulent Claims for the year just ended. The report shall be submitted to the Governor and to the Legislature no later than January 31 of the following year. This report shall not contain any individually identifiable information.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1009

An act to add Chapter 6.5 (commencing with Section 1781.1) to Part 2 of Division 1 of the Insurance Code, relating to insurance, and making an appropriation therefor.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Chapter 6.5 (commencing with Section 1781.1) is added to Part 2 of Division 1 of the Insurance Code, to read:

CHAPTER 6.5. REINSURANCE INTERMEDIARIES

1781.1. This chapter shall be known and may be cited as the Reinsurance Intermediary Act.

1781.2. As used in this chapter:

(a) "Actuary" means a person who is a member in good standing of the American Academy of Actuaries, the Casualty Actuarial Society, or the Society of Actuaries, and is qualified to sign statements of actuarial opinion on loss reserves.

(b) "Controlling person" means any person, firm, association, or corporation who directly or indirectly has the power to direct or cause to be directed, the management, control, or activities of a reinsurance intermediary.

(c) "Insurer" means any person, firm, association, or corporation admitted by the commissioner as an insurer in this state.

(d) "Licensed producer" means a licensed insurance agent, broker, or reinsurance intermediary.

(e) "Qualified United States financial institution" means an institution that meets all of the following criteria:

(1) Is organized or (in the case of a domestic office of a foreign banking organization) licensed, under the laws of the United States or any state thereof.

(2) Is regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies.

(3) Has been determined by either the commissioner or the Securities Valuation Office of the National Association of Insurance Commissioners, to meet standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner.

(f) "Reinsurance intermediary" means a reinsurance intermediary-broker or a reinsurance intermediary-manager.

(g) "Reinsurance intermediary-broker" means any person, other than an officer or employee of the ceding insurer, firm, association, or corporation that solicits, negotiates, or places reinsurance cessions or retrocessions on behalf of a ceding insurer without the authority or power to bind reinsurance on behalf of that insurer.

(h) "Reinsurance intermediary-manager" means any person, firm, association, or corporation that has authority to bind, or manages all or part of the assumed reinsurance business of, a reinsurer (including the management of a separate division, department, or underwriting office) and acts as an agent for the reinsurer whether known as a reinsurance intermediary-manager, manager, or other similar term. However, "reinsurance intermediary-manager" does not include any of the following:

(1) An employee of the reinsurer.

(2) A domestic manager of a United States branch of an alien reinsurer.

(3) An underwriting manager that, pursuant to contract, manages all or any portion of the reinsurance operations of the reinsurer, that is under common control with the reinsurer, that is subject to Article 4.7 (commencing with Section 1215) of Chapter 2, and the compensation of which is not based on the volume of premiums written.

(4) The manager of a group, association, pool, or organization of insurers which engage in joint underwriting or joint reinsurance and that are subject to examination by the insurance regulatory agency or official of the state in which the manager's principal business office is located.

(i) "Reinsurer" means any person, firm, association, or corporation admitted in this state as an insurer with the authority to

assume reinsurance.

(j) "Violation" means the failure of a reinsurance intermediary, or an insurer or reinsurer for whom the reinsurance intermediary was acting, to comply with any provision of this chapter.

1781.3. (a) No person, firm, association, or corporation shall act as a reinsurance intermediary-broker in this state unless licensed as follows:

(1) If the reinsurance intermediary-broker maintains an office, (either directly or as a member or employee of a firm or association, or an officer, director, or employee of a corporation) in this state, the reinsurance intermediary-broker shall be a licensed producer in this state.

(2) If the reinsurance intermediary-broker does not maintain an office in this state, the reinsurance intermediary-broker shall be a licensed producer in this state or another state having a law substantially similar to this chapter or shall be licensed in this state as a nonresident reinsurance intermediary.

(b) No person, firm, association, or corporation shall act as a reinsurance intermediary-manager:

(1) For a reinsurer domiciled in this state, unless the reinsurance intermediary-manager is a licensed producer in this state.

(2) In this state, if the reinsurance intermediary-manager maintains an office either directly or as a member or employee of a firm or association, or as an officer, director, or employee of a corporation in this state, unless the reinsurance intermediary-manager is a licensed producer in this state.

(3) In another state for a nondomestic admitted insurer, unless the reinsurance intermediary-manager is a licensed producer in this state or in another state having a law substantially similar to this chapter or the person is licensed in this state as a nonresident reinsurance intermediary.

(c) The commissioner may require a reinsurance intermediary-manager subject to subdivision (b) to do both of the following:

(1) File a fidelity bond issued by an admitted surety in an amount determined by the commissioner for the protection of the reinsurer.

(2) Maintain an errors and omissions policy in an amount acceptable to the commissioner.

(d) (1) The commissioner may issue a reinsurance intermediary license to any person, firm, association, or corporation that has complied with the applicable requirements of this chapter. This license, when issued to a firm or association, authorizes all the members of the firm or association and any designated employees to act as reinsurance intermediaries under the license, and all these persons shall be named in the application and any supplements thereto. This license, when issued to a corporation, authorizes all of the officers, and any designated employees and directors thereof to act as reinsurance intermediaries on behalf of the corporation, and all these persons shall be named in the application and any

supplements thereto.

(2) If the applicant for a reinsurance intermediary license is a nonresident, it shall be a condition precedent to receiving or holding a license that (A) the applicant shall designate the commissioner as his or her agent for service of process in the manner, and with the same legal effect, provided for by this chapter for designation of service of process upon unauthorized insurers and (B) the applicant shall furnish the commissioner with the name and address of a resident of this state upon whom notices or orders of the commissioner or process affecting the applicant as a nonresident reinsurance intermediary may be served. A licensee subject to this paragraph shall promptly notify the commissioner in writing of every change in its designated agent for service of process, and any change shall not become effective until acknowledged by the commissioner.

(3) Any application for licensure as a reinsurance intermediary under this subdivision shall be made on a form prescribed by the commissioner and shall be accompanied by an application fee of two hundred fifty dollars ($250).

(e) The commissioner may refuse to issue a reinsurance intermediary license if, in his or her judgment, the applicant, any person named on the application, or any member, principal, officer, or director of the applicant, is determined by the commissioner not to be trustworthy, or that any controlling person of the applicant is not trustworthy to act as a reinsurance intermediary, or that any of the foregoing has given cause for revocation or suspension of a reinsurance intermediary license, or has failed to comply with any prerequisite for the issuance of such a license. Upon written request therefor, the commissioner shall furnish the applicant with a summary of the basis for refusal to issue a reinsurance intermediary license, which document shall not be subject to inspection as a public record.

(f) Licensed attorneys at law when acting in their professional capacity as such shall be exempt from this section.

(g) A reinsurance intermediary-manager, when acting in that capacity and in compliance with this chapter, shall not be required to separately comply with Article 5.4 (commencing with Section 769.80) of Chapter 1 (if added by Senate Bill 1039 of the 1991–92 Regular Session) in order to engage in conduct authorized by both this chapter and that article.

1781.4. Transactions between a reinsurance intermediary-broker and the insurer it represents in that capacity shall only be entered into pursuant to a written authorization specifying the responsibilities of each party. The authorization shall, at a minimum, contain provisions specifying all of the following rights and obligations:

(a) The insurer may terminate the reinsurance intermediary-broker's authority at any time.

(b) The reinsurance intermediary-broker shall render accounts to the insurer accurately detailing all material transactions, including

information necessary to support all commissions, charges, and other fees received by, or owing to, the reinsurance intermediary-broker, and remit all funds due to the insurer within 30 days of receipt.

(c) All funds collected for the insurer's account will be held by the reinsurance intermediary-broker in a fiduciary capacity in a bank which is a qualified United States financial institution.

(d) The reinsurance intermediary-broker will comply with Section 1781.5.

(e) The reinsurance intermediary-broker will comply with written standards established by the insurer for the cession or retrocession of all insured risks.

(f) The reinsurance intermediary-broker will disclose to the insurer any relationship with any reinsurer to which insured risk will be ceded or retroceded.

1781.5. (a) For at least 10 years after expiration of each contract of reinsurance transacted by a reinsurance intermediary-broker, the reinsurance intermediary-broker shall keep a complete record for each transaction, including all of the following:

(1) The type of contract, limits, underwriting restriction, classes or risks, and territory.

(2) The period of coverage, including effective and expiration dates, cancellation provisions, and the notice required for cancellation.

(3) Reporting and settlement requirements for balances.

(4) The rate used to compute the reinsurance premium.

(5) The names and addresses of assuming reinsurers.

(6) The rates of all reinsurance commissions, including the commissions on any retrocession, handled by the reinsurance intermediary-broker.

(7) Related correspondence and memoranda.

(8) Proof of placement.

(9) Details regarding retrocession handled by the reinsurance intermediary-brokers, including the identity of retrocessionaires and the percentage of each contract assumed or ceded.

(10) Financial records, including, but not limited to, premium and loss accounts.

(11) If the reinsurance intermediary-broker procures a reinsurance contract on behalf of an admitted ceding insurer directly from the assuming reinsurer, the record of the transaction shall include written evidence that the assuming reinsurer has agreed to assume the risk. If the reinsurance intermediary-broker procures a reinsurance contract on behalf of an admitted ceding insurer that is placed through a representative of the assuming reinsurer, other than an employee thereof, the record of the transaction shall include written evidence that the reinsurer has delegated binding authority to the representative.

(b) The insurer shall have access and the right to copy and audit all accounts and records maintained by the reinsurance intermediary-broker related to its business in a form usable by the

insurer.

1781.6. (a) An insurer shall not engage the services of any person, firm, association, or corporation to act as a reinsurance intermediary-broker on its behalf unless the person is licensed as required by subdivision (a) of Section 1781.3.

(b) An insurer may not employ an individual who is employed by a reinsurance intermediary-broker with which it transacts business unless the reinsurance intermediary-broker is under common control with the insurer and subject to Article 4.7 (commencing with Section 1215) of Chapter 2.

(c) The insurer shall annually obtain a copy of statements of the financial condition of each reinsurance intermediary-broker with which it transacts business.

1781.7. Transactions between a reinsurance intermediary-manager and the reinsurer it represents in that capacity shall only be entered into pursuant to a written contract specifying the responsibilities of each party and which shall be approved by the reinsurers's board of directors. Before a reinsurer assumes or cedes business through such a producer, a true copy of the approved contract shall be filed with the commissioner. The contract shall, at a minimum, contain provisions setting forth the following terms and conditions:

(a) The reinsurer may terminate the contract for cause upon written notice to the reinsurance intermediary-manager. The reinsurer may suspend the authority of the reinsurance intermediary-manager to assume or cede business during the pendency of any dispute regarding the cause for termination.

(b) The reinsurance intermediary-manager shall, not less than quarterly, render calendar-year-basis and underwriting-year-basis accounts to the reinsurer accurately detailing all material transactions, including information necessary to support all commissions, charges, and other fees received by, or owing to, the reinsurance intermediary-manager, and shall remit all funds due under the contract to the reinsurer on not less than a quarterly basis.

(c) All funds collected for the reinsurer's account shall be held by the reinsurance intermediary-manager in a fiduciary capacity in a bank the accounts of which are insured by an agency or instrumentality of the United States. The reinsurance intermediary-manager may retain no more than three months' estimated claims payment and allocated loss adjustment expenses. Unless the funds held for each reinsurer by the reinsurance intermediary-manager in the fiduciary account are reasonably and readily ascertainable from its books of account and records, and the bank's books of account and records, the reinsurance intermediary-manager shall maintain a separate bank account for each reinsurer that it represents. Notwithstanding the foregoing, the reinsurance intermediary-manager shall maintain a separate bank account for each reinsurer that it represents which is in receivership or liquidation or which the commissioner determines to be in an

impaired financial condition.

(d) For at least 10 years after expiration of each contract of reinsurance transacted by the reinsurance intermediary-manager, the reinsurance intermediary-manager shall keep a complete record for each transaction showing all of the following:

(1) The type of contract, limits, underwriting restrictions, classes or risks, and territory.

(2) The period of coverage, including effective and expiration dates, cancellation provisions and notice required for cancellation, and disposition of outstanding reserves on covered risks.

(3) The reporting and settlement requirements with respect to balances.

(4) The rate used to compute the reinsurance premium.

(5) The names and addresses of reinsurers.

(6) The rates of all reinsurance commissions, including the commissions on any retrocessions handled by the reinsurance intermediary-manager.

(7) Related correspondence and memoranda.

(8) Proof of placement.

(9) Details regarding retrocessions handled by the reinsurance intermediary-manager, as permitted by subdivision (d) of Section 1781.9, including the identity of retrocessionaires and the percentage of each contract assumed or ceded.

(10) Financial records, including, but not limited to, premium and loss accounts.

(11) If the reinsurance intermediary-manager places a reinsurance contract on behalf of a ceding insurer directly from the assuming reinsurer, written evidence that the assuming reinsurer has agreed to assume the risk. If the reinsurance intermediary-manager procures a reinsurance contract on behalf of an admitted ceding insurer that is placed through a representative of the assuming insurer, other than an employee thereof, written evidence that the reinsurer has delegated binding authority to the representative.

(e) The reinsurer shall have access and the right to copy all accounts and records maintained by the reinsurance intermediary-manager related to its business in a form usable by the reinsurer.

(f) The contract cannot be assigned in whole or in part by the reinsurance intermediary-manager.

(g) The reinsurance intermediary-manager shall comply with the written underwriting and rating standards established by the insurer for the acceptance, rejection, or cession of all risks.

(h) The contract shall set forth the rates, terms, and purposes of commissions, charges, and other fees which the reinsurance intermediary-manager may levy against the reinsurer.

(i) If the contract permits the reinsurance intermediary-manager to settle claims on behalf of the reinsurer, it shall contain all of the following provisions:

(1) All claims shall be reported to the reinsurer in a timely manner.

(2) A copy of the claim file shall be sent to the reinsurer at its request or as soon as it becomes known that the claim (A) has the potential to exceed the lessor of an amount determined by the commissioner or the limit set by the reinsurer, (B) involves a coverage dispute, (C) may exceed the reinsurance intermediary-manager's claims settlement authority, or (D) is open for more than six months, unless the reinsurer agrees in writing to waive this requirement, in which event the reinsurance intermediary-manager shall annually provide the reinsurer with an exhibit identifying and describing each open claim.

(3) All claim files will be joint property of the reinsurer and the reinsurer intermediary-manager. However, upon an order of liquidation of the reinsurer these files shall become the sole property of the reinsurer or its estate, except when the reinsurance intermediary-manager is also managing the claim files for other reinsurers. In that event the reinsurance intermediary-manager shall simultaneously and immediately provide the liquidator with copies of all the claim files. With respect to claim files pertaining solely to a reinsurer in liquidation, the reinsurance intermediary-manager shall have reasonable access to and the right to copy the files on a timely basis.

(4) Any settlement authority granted to the reinsurance intermediary-manager may be terminated for cause upon the reinsurer's written notice to the reinsurance intermediary-manager or upon the termination of the contract. The reinsurer may suspend the settlement authority during the pendency of the dispute regarding the cause of termination.

(j) If the contract provides for a sharing of interim profits by the reinsurance intermediary-manager, interim profits shall not be paid until one year after the end of each underwriting period for property business and five years after the end of each underwriting period for casualty business (or a later period set by the commissioner for specified lines of insurance) and not until the adequacy of reserves on remaining claims has been verified pursuant to subdivision (c) of Section 1781.9.

(k) The reinsurance intermediary-manager shall annually provide the reinsurer with a statement of its financial condition prepared by an independent certified accountant and annually shall provide the reinsurer with a certification from an independent certified public accountant that the reinsurance intermediary-manager's allocations of premiums and losses to the reinsurer have been made on a timely and proper basis.

(*l*) The reinsurer shall periodically and at least semiannually conduct an onsite review of the underwriting and claims processing operations of the reinsurance intermediary-manager.

(m) The reinsurance intermediary-manager shall disclose to the reinsurer any relationship it has with any insurer prior to ceding or

assuming any business with the insurer pursuant to the contract.

(n) Within the scope of its actual or apparent authority, the acts of the reinsurance intermediary-manager shall be deemed to be the acts of the reinsurer on whose behalf it is acting.

1781.8. The reinsurance intermediary-manager shall not do any of the following:

(a) Directly or indirectly receive any compensation for the placement of retrocessions on behalf of the reinsurer.

(b) Bind any retrocession which would increase the contractual limit made available to the reinsurance intermediary-manager by the reinsurer. However, the reinsurance intermediary-manager may bind retrocessions which reduce or limit the commitments made on behalf of the reinsurer by the reinsurance intermediary-manager. The reinsurance intermediary-manager shall promptly inform the reinsurer of the terms, conditions, and retrocessionaires of such a retrocession arranged for its account.

(c) Commit the reinsurer to participate in reinsurance syndicates.

(d) Appoint any producer without assuring that the producer is lawfully licensed to transact the type of reinsurance for which he or she is appointed.

(e) Without prior approval of the reinsurer, pay or commit the reinsurer to pay a claim, net of retrocessions, that exceeds the lesser of an amount specified by the reinsurer or 1 percent of the reinsurer's policyholders' surplus as of December 31 of the last complete calendar year.

(f) Collect any payment from a retrocessionaire or commit the reinsurer to any claim settlement with a retrocessionaire, without prior approval of the reinsurer. If prior approval is given, a report must be promptly forwarded to the reinsurer.

(g) Jointly employ an individual who is employed by the reinsurer, unless the reinsurance intermediary-manager is under common control with the reinsurer that is subject to Article 4.7 (commencing with Section 1215) of Chapter 2.

(h) Appoint a subreinsurance intermediary-manager.

1781.9. (a) A reinsurer shall not engage the services of any person, firm, association, or corporation to act as a reinsurance intermediary-manager on its behalf, unless the person is licensed as required by subdivision (b) of Section 1781.3.

(b) A reinsurer shall annually obtain a copy of statements of the financial condition of each reinsurance intermediary-manager which the reinsurer has engaged prepared by an independent certified accountant in a form acceptable to the commissioner.

(c) If a reinsurance intermediary-manager establishes loss reserves, the reinsurer shall annually obtain the opinion of an actuary attesting to the adequacy of loss reserves or losses incurred on the business produced by the reinsurance intermediary manager. This opinion shall be in addition to any other required loss reserve certification. For purposes of this section, a reinsurance intermediary-manager shall not be considered as establishing loss

reserves when the reinsurance intermediary-manager only utilizes loss reserves which are the reinsurer's share of loss reserves established by the ceding insurer, provided that the ceding insurer has obtained the opinion of an actuary attesting to the adequacy of loss reserves established for losses incurred and outstanding on business produced by the reinsurance intermediary-manager.

(d) Binding authority for participation in reinsurance syndicates shall rest with an officer of the reinsurer who shall not be affiliated with the reinsurance intermediary-manager.

(e) Within 30 days of termination of a contract with a reinsurance intermediary-manager, the reinsurer shall provide written notification of the termination to the commissioner.

(f) A reinsurer shall not appoint to its board of directors, any officer, director, employee, controlling shareholder, or subproducer of its reinsurance intermediary-manager. This subdivision shall not apply to relationships governed by Article 4.7 (commencing with Section 1215) of Chapter 2.

1781.10. (a) A reinsurance intermediary shall be subject to examination by the commissioner. The commissioner shall have access to all books, bank accounts, and records of each reinsurance intermediary in a form usable to the commissioner.

(b) A reinsurance intermediary-manager may be examined as if it were the reinsurer.

1781.11. (a) A reinsurance intermediary, insurer, or reinsurer found by the commissioner to be in violation of this chapter, after a hearing conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code by an administrative law judge either chosen under Section 11502 of the Government Code or appointed by the commissioner, shall be subject to all of the following:

(1) For each separate violation, a penalty in an amount not exceeding five thousand dollars ($5,000).

(2) Be subject to revocation or suspension of its license or certificate of authority.

(b) Nothing contained in this section shall affect the right of the commissioner to impose or issue any other penalties or orders authorized by law.

(c) Nothing contained in this chapter shall in any manner limit or restrict the rights of policyholders, claimants, creditors, or other third parties or confer any rights upon those persons or otherwise limit any other authority required or authorized to be exercised under this code by the commissioner.

1781.12. The commissioner may adopt reasonable rules and regulations for the implementation and administration of this chapter.

1781.13. No insurer or reinsurer may continue to utilize the services of a reinsurance intermediary on and after January 1, 1992, unless utilization is in compliance with this chapter.

CHAPTER 1010

An act to add and repeal Section 50465 of the Health and Safety Code, relating to housing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 13, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 50465 is added to the Health and Safety Code, to read:

50465. (a) The Legislature hereby finds and declares all of the following:

(1) The Cranston-Gonzales National Affordable Housing Act of 1990 (Public Law 101-625) was enacted to reaffirm the long-established national commitment to decent, safe, and sanitary housing for every American.

(2) The Cranston-Gonzales National Affordable Housing Act of 1990 (Public Law 101-625) requires each state and unit of local government to prepare a comprehensive housing affordability strategy, referred to as a "housing strategy," in order to apply for, and receive, specified federal housing assistance.

(3) Sections 50450, 50451, and 50452 require the department to prepare the California Statewide Housing Plan, which contains a statement of housing goals, policies, and objectives, and to biennially update the plan.

(4) Sections 65302 and 65580 of the Government Code require cities and counties to adopt housing elements containing an assessment of housing needs, including their share of the regional housing need, and also containing a five-year program of actions necessary to meet those needs.

(b) It is the intent of the Legislature to do all of the following:

(1) Provide for a coordinated system of housing planning within the State of California by the department, cities, counties, local housing agencies, and the California Housing Finance Agency. This system shall meet the requirements of state and federal law, provide consistent housing goals and objectives, and establish a method for assessing, evaluating, and monitoring the degree of progress and accomplishment in meeting those goals and objectives.

(2) Minimize the amount of additional work necessary to prepare the housing strategy by utilizing existing data, documents, and procedures, to the extent they meet the requirements of law, and fulfill the intent to develop a coordinated system of housing planning with adequate evaluation and monitoring.

(3) Assist communities through the housing strategy to meet their fair share of regional housing needs.

(c) (1) The department shall prepare a draft housing strategy

which incorporates both a strategy to maximize the receipt of federal funds as well as a comprehensive needs assessment by September 1, 1991, which shall be widely distributed.

(2) The department shall hold public hearings by September 15, 1991, in places which are geographically dispersed throughout the state.

(3) The department shall prepare a final draft which addresses the written comments received at the public hearings conducted pursuant to paragraph (1) by October 31, 1991. The final document shall be published and the department shall append a summary of the comments and any changes made in response to the comments to the final document when submitting it to the United States Department of Housing and Urban Development.

(d) In accordance with subdivision (c), the department shall prepare the housing strategy for the State of California required by Sections 105, 107, and 108 of the Cranston-Gonzales National Affordable Housing Act of 1990 (Public Law 101-625), in cooperation with the California Housing Finance Agency, the California Tax Credit Allocation Committee, and the Department of Veterans Affairs.

(e) The department shall consult with a group of individuals having expertise in housing, including, but not limited to, representatives of cities, counties, housing authorities, redevelopment agencies, realtors, lenders, senior housing advocates, low-income housing advocates, and private for profit and nonprofit housing developers, to receive recommendations on all, but not limited to, the following:

(1) Procedures for amendments, performed evaluations, and revisions of the Comprehensive Housing Affordability Strategy.

(2) Methodology for gathering and maintaining housing needs data and housing inventory data.

(3) Procedures and practices for administration of state and federal funds.

(4) Procedures for meeting new federal matching requirements which will maximize the receipt of federal funds.

(5) A priority system for the allocation of funds in accordance with the state's housing needs.

(6) Procedures for improving the housing planning by the State of California, cities, counties, and local housing agencies.

(f) This section shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1994, deletes or extends that date.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Because federal law requires the adoption of a housing strategy, and because it is in the public interest to commence work on that strategy at the earliest time in order to ensure the receipt of the

maximum amount of federal housing assistance, it is necessary that this act take effect immediately.

CHAPTER 1011

An act to add Article 14.5 (commencing with Section 51865) to Chapter 5 of Part 28 of the Education Code, relating to education.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. The Legislature finds and declares as follows:

(a) Distance learning instructional technologies present California with excellent opportunities to accomplish important long-range educational objectives efficiently.

(b) Distance learning is changing educational boundaries that traditionally have been defined by location and by institution. Using distance learning technology, classrooms now can extend to pupils in other schools, in other cities, in other states, and in other nations. A high school course in advanced mathematics may be taught by a university professor in a live, interactive situation linking high school pupils in inner-city areas of Los Angeles, Boston, Detroit, and rural areas of California.

(c) California is far behind other states in statewide planning and policy development for distance learning. As a result, the benefits of distance learning are not being shared equitably throughout the state, its educational resources are not being used as efficiently as they might be, the potential of distance learning technologies to meet broader school and college reform goals is not being maximized, and outmoded statutes and policies block full utilization of those new technologies.

(d) The federal Office of Technology Assessment concluded in a 1989 report that the recent expansion of distance learning has provided a unique opportunity for collaboration and resource sharing by educators from various institutional, instructional, and geographic locations. Joint activities by representatives from public schools, higher education, and the private sector have multiplied significantly during the past five years, seeking to use distance learning as a means to respond to the need for improved educational services. Distance learning technology has been used successfully in many states to provide educational services for geographically isolated schools and for underserved or advanced pupils. States are now using that technology as a means of solving other educational deficiencies, including inadequacies in faculty and staff development, parental involvement, and cultural relations.

(e) High school graduates from rural counties in California are

significantly less likely than high school graduates statewide to be eligible for admission to a four-year college or university. Among the primary reasons for those differing rates of eligibility for admission to California's colleges and universities are that many small rural high schools are isolated and do not have enough pupils to support the advanced or specialty courses offered by larger or less isolated schools, and that some schools are not able to supply the resources or qualified staff necessary to offer courses in certain areas, including, but not limited to, science, foreign language, and mathematics.

(f) California has no formal state policy on the use of distance learning. Because of this, no policies are in place for the appropriation of funding, coordination among service providers and users, or the establishment of guidelines for faculty and administration.

(g) Chapter 14 (commencing with Section 11300) of Part 7 of the Education Code, which became effective January 1, 1990, directed the California Postsecondary Education Commission to develop a state policy on the use of distance learning technology in education, to be considered and, if appropriate, adopted, by the Legislature. The state policy recommended by the commission is set forth in Section 2 of this act.

(h) The California Planning Commission for Educational Technology was established to develop, prior to January 1, 1992, a state master plan for educational technology in the public elementary and secondary schools, and in public postsecondary educational institutions, taking into account, and building upon, existing district, regional, and statewide educational technology plans. The expanded use of distance learning technology is an important objective of the statewide planning effort.

SEC. 2. Article 14.5 (commencing with Section 51865) is added to Chapter 5 of Part 28 of the Education Code, to read:

Article 14.5. California Distance Learning Policy

51865. (a) It is the intent of the Legislature that legislation be enacted to implement the policy objectives set forth in this section with regard to distance learning. For purposes of this article, "distance learning" means instruction in which the pupil and instructor are in different locations and interact through the use of computer and communications technology. Distance learning may include video or audio instruction in which the primary mode of communication between pupil and instructor is instructional television, video, telecourses, or any other instruction that relies on computer or communications technology.

(b) Distance learning should be utilized by the state to achieve the following educational goals:

(1) Equity in education, which requires that every pupil in California's public schools, and every adult in the state, have equal access to educational opportunities, regardless of where he or she

lives or how small a school the pupil attends.

(2) Quality in education, which would be enhanced through the creative application of telecommunications, as pupils are given the opportunity to interact with pupils from other cultures and geographical locations, and with outstanding educators from other educational institutions.

(3) Diversity among educational institutions, which has been recognized in California through the support of various types of public educational institutions as well as of independent and private colleges and universities. Distance learning technology permits greater diversity in the means of instruction and in the delivery of educational and training services to an adult population that is more and more likely to seek education outside of the traditional baccalaureate program designed for four consecutive years on a full-time basis shortly after graduating from high school.

(4) Efficiency and accountability, which receive increasing emphasis as state budget resources become increasingly restricted. Distance learning technologies can be effective only through the cooperative efforts of individuals from different institutions, a collaboration that has the potential to reduce costs and increase efficiency. A technology-integrated educational delivery system would allow for the electronic transmittal of files and reports, thus providing the information needed for accountability more rapidly and at a lower cost, and for video teleconferencing for state and local education and other government agencies, thereby diminishing travel requirements.

(c) To the extent that funding is made available for this purpose, a coordinated distance learning system should be developed to serve the following high priority education needs:

(1) The enhancement of work force skills and competency in the adult population.

(2) The expansion of adult education classes in English as a second language, in response to the growing level of unmet need for that instruction.

(3) The enhancement of curriculum to meet the needs of high-risk pupils who would be likely to drop out of traditional classroom programs.

(4) The expansion of course offerings in subjects that include, but are not limited to, foreign languages, science, and mathematics, to rural and inner-city secondary schools that are unable to provide the college preparatory and enrichment courses that their pupils require and that other secondary schools provide.

(5) The expansion of course offerings at community colleges and off-campus centers to better serve students in all parts of the state. This expansion should include university-level courses, to better serve community college students who seek a university-level education but do not have the financial resources to transfer to a university.

(6) The establishment of staff development courses for

elementary school, secondary school, and community college teachers who otherwise might be unable to participate in training opportunities.

(7) The enhancement of curriculum through an increased communication capability on the part of schools, colleges, and universities, providing the opportunity for those institutions to receive various types of supplementary educational programs, conduct exchanges with business, industry, and government, participate in live lectures and conferences on special topics, and increase cooperation and communication with other educational institutions.

(d) The state should encourage the use of multiple technologies in distance learning education, including microwave, satellite, and public/private switched network delivery systems. Priority in this regard should be placed upon interconnecting the various delivery systems, while providing educators with the opportunity to experiment with each alternative distance learning technology.

(e) The state shall recognize the value of regional networks serving regional needs, as well as the value of a statewide network.

(f) In expanding the use of distance learning technology, the state should emphasize the delivery of education and training services to populations currently not receiving those services, the ease of access by educational institutions to the technology, and the lower cost over time of providing instruction through distance learning rather than on site.

(g) The state should employ incentives, rather than requirements, to induce educational institutions to expand their utilization of distance learning technologies.

(h) The state should ensure that the same standards are applied to distance learning for course and program quality, course content, pupil achievement levels, and coherence of curriculum that are currently applied for those purposes to traditional classroom instruction at public educational institutions.

(i) The state should encourage collaboration between the private sector and educational institutions in the use of technology, both to enhance the quality of education in the classroom and to expand the delivery of educational services to the worksite.

CHAPTER 1012

An act to amend Sections 12164.5, 12165, 12166, and 12167 of, and to add Section 12167.1 to, the Public Contract Code, relating to solid waste.

[Approved by Governor October 13, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 12164.5 of the Public Contract Code is amended to read:

12164.5. (a) It is the intent of the Legislature that for the current state waste paper collection program, the California Integrated Waste Management Board shall provide participating locations with public information awareness and training to state and legislative employees. Additionally, the California Integrated Waste Management Board shall provide training for personnel, including but not limited to, state and buildings and grounds personnel, responsible for the collection of waste materials. This training shall include, but is not limited to, educating and training the personnel concerning the separation and collection of recyclable materials.

(b) It is also the intent of the Legislature that the California Integrated Waste Management Board continue the current state waste paper collection program and use this program as a model to develop a plan for other waste materials generated by state and legislative employees.

(c) It is also the intent of the Legislature that the department, in consultation with the California Integrated Waste Management Board, shall submit a new recycling plan, which includes but is not limited to, the collection and sale of waste materials generated by state and legislative employees. This plan shall be submitted to the appropriate legislative policy committees on or before August 31, 1990. The plan may be phased in utilizing those office facilities and collecting those waste materials most conducive to operation of a source separation program, but shall be fully implemented by June 1, 1991.

SEC. 2. Section 12165 of the Public Contract Code is amended to read:

12165. (a) After implementing a recycling plan pursuant to subdivision (c) of Section 12164.5, the California Integrated Waste Management Board shall establish, implement, and maintain a recycling plan for the Legislature, which may include all legislative offices and individual members' district offices; all state offices whether in state-owned buildings or leased facilities in Sacramento, Los Angeles, and San Francisco Counties; and in any other areas that the board determines to be feasible. The plan shall include the provisions for the recycling of office paper, corrugated cardboard,

newsprint, beverage containers (as defined in Section 14503 of the Public Resources Code), waste oil, and any other material at the discretion of the board.

(b) The collection program for each product and each location shall be reevaluated by the board on or before January 1, 1994. Subsequently, the board, upon the determination that inclusion of any particular material type would result in a net revenue loss to the state, shall have the discretion to exclude that material from the program, and shall report its conclusions and recommendations to the Legislature. In determining the net revenue loss for the collection of a specified waste material, the board shall include the avoided cost to dispose of the waste material. The plan shall provide either for the collection and sale of materials to private brokers, recycling plants, or nonprofit organizations, or the operation of these entities by the state, or a combination thereof. The plan shall be implemented at the earliest possible date.

(c) The board shall provide participating locations with public awareness information and training to state and legislative employees, including, but not limited to, the proper separation and disposal of recyclable resources. Additionally, the board shall provide training for personnel, including, but not limited to, state buildings and grounds personnel, responsible for the collection of waste materials. This training shall include, but is not limited to, educating and training the personnel concerning the separation and collection of recyclable materials.

(d) No individual, group of individuals, state office, agency, or its employees shall establish a similar collection program or enter into agreement for a similar program unless approved by the board.

SEC. 3. Section 12166 of the Public Contract Code is amended to read:

12166. The California Integrated Waste Management Board may contract as necessary for the recycling of products which have been returned pursuant to Section 12165.

SEC. 4. Section 12167 of the Public Contract Code is amended to read:

12167. Revenues received from this plan or any other activity involving the collection and sale of recyclable materials in state and legislative offices located in state-owned and state-leased buildings, such as the sale of waste materials through recycling programs operated by the California Integrated Waste Management Board or in agreement with the board, shall be used to offset recycling program costs. Any remaining revenues not expended during a fiscal year shall be used to offset recycling program costs in the following year.

SEC. 5. Section 12167.1 is added to the Public Contract Code, to read:

12167.1. Upon approval by the California Integrated Waste Management Board, state agencies and institutions may use moneys derived from the sale of recyclable materials for the purposes of

offsetting recycling program costs. Information on the quantities of recyclable materials collected for recycling shall be provided to the board on an annual basis according to a schedule determined by the board and participating agencies.

SEC. 6. The Legislature hereby finds and declares that there is an urgent need to reduce the amount of mixed paper waste going to the state's overflowing landfills.

SEC. 7. The California Integrated Waste Management Board shall submit recommendations to the Legislature by January 1, 1993, concerning programs which are needed to encourage high levels of recycling for mixed paper waste. As used in this act, "mixed paper waste" means paper stock that consists of a clean sorted mixture of various quantities of paper containing less than 10 percent ground wood stock.

CHAPTER 1013

An act to amend Section 109 of the Business and Professions Code, relating to consumer affairs.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 109 of the Business and Professions Code is amended to read:

109. (a) The decisions of any of the boards comprising the department with respect to setting standards, conducting examinations, passing candidates, and revoking licenses, are not subject to review by the director, but are final within the limits provided by this code which are applicable to the particular board, except as provided in this section.

(b) The director may initiate an investigation of any allegations of misconduct in the preparation, administration, or scoring of an examination which is administered by a board, or in the review of qualifications which are a part of the licensing process of any board. A request for investigation shall be made by the director to the Division of Investigation through the chief of the division or to any law enforcement agency in the jurisdiction where the alleged misconduct occurred.

(c) The director may intervene in any matter of any board where an investigation by the Division of Investigation discloses probable cause to believe that the conduct or activity of a board, or its members or employees constitutes a violation of criminal law.

The term "intervene," as used in paragraph (c) of this section may include, but is not limited to, an application for a restraining order or injunctive relief as specified in Section 123.5, or a referral or

request for criminal prosecution. For purposes of this section, the director shall be deemed to have standing under Section 123.5 and shall seek representation of the Attorney General, or other appropriate counsel in the event of a conflict in pursuing that action.

CHAPTER 1014

An act to amend Section 309 of the Health and Safety Code, relating to genetic disease testing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 309 of the Health and Safety Code is amended to read:

309. (a) It is the policy of the State of California to make every effort to detect, as early as possible, phenylketonuria and other preventable heritable or congenital disorders leading to mental retardation or physical defects.

The state department shall establish a genetic disease unit, which shall coordinate all programs of the state department in the area of genetic disease. The unit shall promote a statewide program of testing information and counseling services and shall have the responsibility of designating tests and regulations to be used in executing this program. The tests shall be in accordance with accepted medical practices and shall be administered to each child born in California at such time as the state department has established appropriate regulations and testing methods. The state department may provide laboratory testing facilities or contract with any laboratory which it deems qualified to conduct tests required under this section. However, notwithstanding Section 309.5, provision of laboratory testing facilities by the state department shall be contingent upon the provision of funding therefor by specific appropriation to the Genetic Disease Testing Fund enacted by the Legislature. If moneys appropriated for purposes of this section are not authorized for expenditure to provide laboratory facilities, the state department may nevertheless contract to provide laboratory testing services pursuant to this section and shall perform laboratory services, including, but not limited to, quality control, confirmatory, and emergency testing, necessary to ensure the objectives of this program.

(b) The state department shall charge a fee for any tests performed pursuant to this section. The amount of the fee shall be established and periodically adjusted by the director in order to meet the costs of this section.

(c) The state department shall inform all hospitals or physicians and surgeons, or both, of required regulations and tests and may alter or withdraw any of these requirements whenever sound medical practice so indicates.

(d) This section shall not apply if a parent or guardian of the newborn child objects to a test on the ground that the test conflicts with his or her religious beliefs or practices.

(e) The genetic disease unit is authorized to make grants or contracts or payments to vendors approved by the state department for all of the following:

(1) Testing and counseling services.

(2) Demonstration projects to determine the desirability and feasibility of additional tests or new genetic services.

(3) To initiate the development of genetic services in areas of need.

(4) To purchase or provide genetic services from any sums as are appropriated for this purpose.

(f) The genetic disease unit shall evaluate and prepare recommendations on the implementation of tests for the detection of hereditary and congenital diseases, including, but not limited to, cystic fibrosis and congenital adrenal hyperplasia. Followup reports on the evaluations and recommendations shall be included in the annual report prepared by the director pursuant to Section 153.

It is the intent of the Legislature that funds for the support of the evaluations and recommendations required pursuant to this subdivision, and for the activities authorized pursuant to subdivision (e), shall be provided in the annual Budget Act appropriation from the Genetic Disease Testing Fund.

(g) Health care providers which contract with a prepaid group practice health care service plan that annually has at least 20,000 births among its membership, may provide, without contracting with the state department, any or all of the testing and counseling services required to be provided under this section or the regulations adopted pursuant thereto, if the services meet the quality standards and adhere to the regulations established by the state department and the plan pays that portion of a fee established under this section which is directly attributable to the state department's cost of administering the testing or counseling service and to any required testing or counseling services provided by the state for plan members. The payment by the plan, as provided in this subdivision, shall be deemed to fulfill any obligation the provider or the provider's patient may have to the state department to pay a fee in connection with the testing or counseling service.

(h) The adoption of regulations pursuant to this section shall be deemed to be an emergency, and necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding subdivision (h) of Section 11346.1 and Section 11349.6 of the Government Code, the director shall transmit regulations adopted pursuant to this section directly to the Secretary

of State for filing. The regulations shall be filed by the Secretary of State as emergency regulations and shall become effective immediately.

(i) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted by the state department pursuant to this section shall not be repealed by the Office of Administrative Law and shall remain in effect until revised or repealed by the state department.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to continue protecting public health through genetic screening, while staying within the available budget by changing to the vendor method of compensating health care providers, it is necessary that this act take effect immediately.

CHAPTER 1015

An act to amend Section 7423 of, to amend and repeal Section 7442 of, to add Section 7337.5 to, and to add and repeal Section 7377 of, the Business and Professions Code, relating to cosmetology, and making an appropriation therefor.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 7337.5 is added to Article 5 (commencing with Section 7337) of Chapter 10 of Division 3 of the Business and Professions Code, as added by Chapter 1672 of the Statutes of 1990, to read:

7337.5. (a) The board shall adopt regulations providing for the submittal of applications for admission to examination of students of approved cosmetology, electrology, or barbering schools who have completed at least 75 percent of the required course clock hours and curriculum requirements (60 percent for students of the manicurist course). The regulations shall include provisions that ensure that all proof of qualifications of the applicant are received by the board before the applicant is examined.

(b) An application for examination submitted under this section shall be known as a "preapplication" and an additional preapplication fee may be required.

(c) This section shall become operative on July 1, 1992.

SEC. 2. Section 7377 is added to the Business and Professions Code, to read:

7377. (a) The board shall adopt regulations providing for the submittal of applications for admission to examination of students of approved cosmetology or electrology schools who have completed at least 75 percent of the required course clock hours and curriculum requirements (60 percent for students of the manicurist course). The regulations shall include provisions that ensure that all proof of qualifications of the applicant are received by the board before the applicant is examined.

(b) An application for examination submitted under the provisions of this section shall be known as a "preapplication" and an additional preapplication fee may be required for its processing.

(c) This section is operative only until July 1, 1992, on which date it shall be repealed unless a later enacted statute deletes or extends that date.

SEC. 3. Section 7423 of the Business and Professions Code, as added by Chapter 1672 of the Statutes of 1990, is amended to read:

7423. The amounts of the fees required by this chapter relating to licenses for individual practitioners are as follows:

(a) Cosmetologist application, examination and initial license fee shall be not more than fifty dollars ($50).

(b) Esthetician application, examination and initial license fee shall be not more than forty dollars ($40).

(c) Manicurist application, examination and initial license fee shall be not more than twenty-five dollars ($25).

(d) Barber application, examination and initial license fee shall be not more than fifty dollars ($50).

(e) Electrologist application, examination and license fee shall be not more than fifty dollars ($50).

(f) Apprentice application and license fee shall be not more than twenty-five dollars ($25).

(g) The license renewal fee for individual practitioner licenses that are subject to renewal shall be not more than fifty dollars ($50).

(h) The license renewal delinquency fee shall be 50 percent of the renewal fee in effect on the date of renewal, notwithstanding Section 163.5.

(i) Any preapplication fee shall be established by the board in an amount sufficient to cover the costs of processing and administration of the preapplication.

(j) This section shall become operative on July 1, 1992.

SEC. 3.5. Section 7423 of the Business and Professions Code, as added by Chapter 1672 of the Statutes of 1990, is amended to read:

7423. The amounts of the fees required by this chapter relating to licenses for individual practitioners are as follows:

(a) Cosmetologist application, examination and initial license fee shall be not more than fifty dollars ($50).

(b) Esthetician application, examination and initial license fee shall be not more than forty dollars ($40).

(c) Manicurist application, examination and initial license fee shall be not more than thirty-five dollars ($35).

(d) Barber application, examination and initial license fee shall be not more than fifty dollars ($50).

(e) Electrologist application, examination and initial license fee shall be not more than fifty dollars ($50).

(f) Apprentice application and license fee shall be not more than twenty-five dollars ($25).

(g) The license renewal fee for individual practitioner licenses that are subject to renewal shall be not more than fifty dollars ($50).

(h) The license renewal delinquency fee shall be 50 percent of the renewal fee in effect on the date of renewal, notwithstanding Section 163.5.

(i) Any preapplication fee shall be established by the board in an amount sufficient to cover the costs of processing and administration of the preapplication.

(j) This section shall become operative on July 1, 1992.

SEC. 4. Section 7442 of the Business and Professions Code is amended to read:

7442. The amount of the fees required by this chapter relating to licenses for cosmetologists, electrologists, manicurists, cosmeticians, junior operators, junior electrologists, cosmetology instructors, electrology instructors, and provisional instructors, shall be set by the board at not more than the amounts shown in the following schedule:

(a) Cosmetologist application, examination and initial license fee shall be not more than forty dollars ($40).

(b) Electrologist application, examination and initial license fee shall be not more than forty dollars ($40).

(c) Manicurist application, examination and initial license fee shall be not more than twenty-six dollars ($26).

(d) Junior operator application and license fee shall be not more than twenty-two dollars ($22).

(e) Junior electrologist application and initial license fee shall be not more than twenty-two dollars ($22).

(f) Cosmetology instructor application, examination and initial license fee shall be not more than forty-eight dollars ($48).

(g) Electrology instructor application, examination and initial license fee shall be not more than forty-four dollars ($44).

(h) Provisional instructor application and license fee shall be not more than forty-eight dollars ($48).

(i) Cosmetologist, electrologist, manicurist, cosmetician, cosmetology instructor and electrology instructor license renewal fees shall be not more than forty dollars ($40).

(j) Cosmetician application, examination and initial license fee shall be not more than forty dollars ($40).

(k) The license renewal delinquency fee shall be 50 percent of the renewal fee in effect on the date of renewal.

(*l*) Any preapplication fee shall be established by the board in an amount sufficient to cover the costs of processing and administration of the preapplication.

(m) This section is operative only until July 1, 1992, and is then

repealed unless a later enacted statute, which is enacted before July 1, 1992, deletes or extends that date.

SEC. 5. Section 3.5 of this bill incorporates amendments to Section 7423 of the Business and Professions Code proposed by both this bill and AB 1161. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2) each bill amends Section 7423 of the Business and Professions Code, and (3) this bill is enacted after AB 1161, in which case Section 3 of this bill shall not become operative.

SEC. 6. No General Fund moneys shall be expended for any costs relative to this act. It is the intent of the Legislature that the board's budget be augmented to implement the provisions of this act and shall include necessary staffing. All costs associated with preapplications shall be self-supported by the fees charged for preapplication.

CHAPTER 1016

An act to amend Section 3601 of the Penal Code, relating to prisoners.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 3601 of the Penal Code is amended to read:

3601. Every female person, upon whom has been imposed the judgment of death, shall be delivered to the warden of the Central California Women's Facility, there to be held pending decision upon appeal.

CHAPTER 1017

An act to amend Sections 3042 , 6031.2, and 6242.6 of, and to add Section 6025.6 to, the Penal Code, relating to corrections, and making an appropriation therefor.

[Approved by Governor October 13, 1991 Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 3042 of the Penal Code is amended to read:

3042. (a) At least 30 days before the Board of Prison Terms meets to review or consider the parole suitability or the setting of a parole date for any prisoner sentenced to a life sentence, the board

shall send written notice thereof to each of the following persons: the judge of the superior court before whom the prisoner was tried and convicted, the attorney who represented the defendant at trial, the district attorney of the county in which the offense was committed, the law enforcement agency that investigated the case, and where the prisoner was convicted of the murder of a peace officer, the law enforcement agency which had employed that peace officer at the time of the murder.

(b) The Board of Prison Terms shall record all such hearings and transcribe recordings of those hearings within 30 days of any hearing. Those transcripts, including the transcripts of all prior hearings, shall be filed and maintained in the office of the Board of Prison Terms and shall be made available to the public no later than 30 days from the date of the hearing. No prisoner shall actually be released on parole prior to 60 days from the date of the hearing.

(c) At any hearing, the presiding hearing officer shall state his or her findings and supporting reasons on the record.

(d) Any statements, recommendations, or other materials considered shall be incorporated into the transcript of the hearing, unless the material is confidential in order to preserve institutional security and the security of others who might be endangered by disclosure.

(e) This section shall not apply to any hearing held to consider advancing a prisoner's parole date due to his or her conduct since his or her last hearing.

SEC. 2. Section 6025.6 is added to the Penal Code, to read:

6025.6. The Board of Corrections may delegate any ministerial authority or duty conferred or imposed upon the board to a subordinate officer subject to those conditions as it may choose to impose.

SEC. 3. Section 6031.2 of the Penal Code is amended to read:

6031.2. The Board of Corrections shall file with the Legislature by March 31, 1974, and on June 30, in each even-numbered year thereafter, reports of the inspection of those local detention facilities that have not complied with the minimum standards established pursuant to Section 6030. The reports shall specify those areas in which the facility has failed to comply and the estimated cost to the facility necessary to accomplish compliance with the minimum standards.

The reports shall also include an evaluation of standards required of, and training provided for, correctional personnel. The reports shall specify those areas in which standards and training are, in the board's estimation, inadequate.

SEC. 4. Section 6242.6 of the Penal Code is amended to read:

6242.6. (a) The board shall provide evaluation of the progress, activities, and performance of each center and participating county's progress established pursuant to this chapter and shall report the findings thereon to the Legislature two years after the operational onset of each facility.

(b) The board also shall provide to the Joint Legislative Committee on Prison Construction and Operations and to the Joint Legislative Budget Committee, on January 1 of each year beginning 1992, a report on the progress of contracting with counties for centers as provided in this chapter.

(c) The board shall select an outside monitoring firm in cooperation with the Auditor General's office, to critique and evaluate the programs and their rates of success based on recidivism rates, drug use, and other factors it deems appropriate. Two years after the programs have begun operations, the report shall be provided to the Joint Legislative Prisons Committee, participating counties, the department, the Department of Alcohol and Drug Programs, the State Department of Health Services, and other sources the board deems of value. Notwithstanding subdivision (k) of Section 6242, one hundred fifty thousand dollars ($150,000) is hereby appropriated from the funds disbursed under this chapter from the 1990 Prison Construction Fund to the Board of Corrections to be used for program evaluation under this subdivision.

(d) The department shall be responsible for the ongoing monitoring of contract compliance for state offenders placed in each center.

CHAPTER 1018

An act to amend Section 25608 of the Corporations Code, and to amend Section 13978.6 of the Government Code, relating to corporations, and making an appropriation therefor.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 25608 of the Corporations Code is amended to read:

25608. (a) The commissioner shall charge and collect the fees fixed in this section. All fees charged and collected under this section shall be transmitted to the State Treasurer at least weekly, accompanied by a detailed statement thereof and shall be credited to the General Fund.

(b) The fee for filing an application for a negotiating permit under subdivision (c) of Section 25102 is fifty dollars ($50).

(c) The fee for filing a notice pursuant to paragraph (5) of subdivision (h) of Section 25102, the fee for filing a notice pursuant to paragraph (4) of subdivision (f) of Section 25102, and the fee for filing a notice pursuant to paragraph (6) of subdivision (h) of Section 25103, in addition to the fee prescribed in those paragraphs, if applicable, shall be determined based on the value of the securities

proposed to be sold in the transaction for which the notice is filed and in accordance with subdivision (g), and shall be as follows:

Value of Securities Proposed to be Sold	Filing Fee
$25,000 or less	$ 25
$25,001 to $100,000	$ 35
$100,001 to $500,000	$ 50
$500,001 to $1,000,000	$150
Over $1,000,000	$300

(d) The fee for filing an application for designation of an issuer pursuant to subdivision (k) of Section 25100 is fifty dollars ($50).

(e) The fee for filing an application for qualification of the sale of securities by notification under Section 25112 or by permit under Section 25113 (except applications for qualification by permit of the sale of any guarantee of any security, the fees for which applications are fixed in subdivision (k) is two hundred dollars ($200) plus one-fifth of 1 percent of the aggregate value of the securities sought to be sold in this state up to a maximum aggregate fee of two thousand five hundred dollars ($2,500).

(f) The fee for filing an application for qualification of the sale of securities by coordination under Section 25111 is two hundred dollars ($200) plus one-fifth of 1 percent of the aggregate value of the securities sought to be sold in this state up to a maximum aggregate fee of two thousand five hundred dollars ($2,500).

(g) For the purpose of determining the fees fixed in subdivisions (e) and (f):

(1) The value of the securities shall be the price at which the company proposes to sell the securities, or the value, as alleged in the application, or the actual value, as determined by the commissioner, of the consideration (if other than money) to be received in exchange therefor, or of the securities when sold, whichever is greater.

(2) Interim or voting trust certificates shall have a value equal to the aggregate value of the securities to be represented by the interim or voting trust certificates.

(3) The value of a warrant or right to purchase or subscribe to another security of the same or another issuer shall be an amount equal to the consideration to be paid for that warrant or right plus an amount equal to the consideration to be paid upon purchase of the additional securities, provided that if the latter amount is not determinable at the time of qualification, that amount shall be the then value of the additional securities as determined by the commissioner.

(4) In the case of a share dividend where the shareholders are given an option to accept either cash or additional shares of common stock, the value of the securities to be sold shall be the maximum amount of cash which would be payable in the event that all

shareholders elected to accept cash.

(h) The fee for filing an application for qualification of the sale of securities by permit under Section 25121 is:

(1) Two hundred dollars ($200) in connection with any change (including any stock split or reverse stock split or stock dividend, except a stock dividend where the shareholders are given an option to accept either cash or additional shares of common stock) in the rights, preferences, privileges, or restrictions of or on outstanding securities.

(2) Two hundred dollars ($200) plus one-fifth of 1 percent of the value, as alleged in the application, or the actual value, as determined by the commissioner, of the consideration to be received in exchange therefor, up to a maximum aggregate fee of two thousand five hundred dollars ($2,500), in any exchange of securities by the issuer with its existing security holders exclusively, or in any exchange in connection with any merger or consolidation or purchase of corporate assets in consideration of the issuance of securities.

(i) The fee for filing an application for qualification of the sale of securities by notification under Section 25131 shall be one hundred dollars ($100).

(j) The fee for an application for the removal of any condition under Section 25141 is fifty dollars ($50).

(k) The fee for filing any application for a permit to execute or issue any guarantee of any security is fifty dollars ($50).

(*l*) The fee for acting as escrow holder for securities under Section 25149 is fifty dollars ($50). In addition, a fee of two dollars and fifty cents ($2.50) shall be paid for the deposit with the commissioner of each new certificate or other document resulting from a transfer in escrow.

(m) The fee for filing an application for an order (1) consenting to the transfer in escrow of securities, (2) consenting to the transfer of securities subject to any condition imposed by the commissioner requiring the commissioner's consent to the transfer, or (3) consenting to the transfer of securities subject to a legend stamped or printed on the certificates evidencing the securities pursuant to subdivision (h) of Section 25102, is twenty dollars ($20) for each transferor.

(n) The filing fee for an amendment to an application filed after the effective date of the qualification of the sale of securities is fifty dollars ($50) plus any additional fee which would have been required to be paid with the original application for qualification of the sale of securities under this section if the matters set forth in the amendment had been included in the original application.

(o) (1) The fee for filing an application for a broker-dealer certificate under Section 25211 is three hundred dollars ($300).

(2) Each broker-dealer shall pay to the commissioner its pro rata share of all costs and expenses, reasonably incurred in the administration of the broker-dealer program under this division, as estimated by the commissioner for the ensuing year and any deficit

actually incurred or anticipated in the administration of the program in the year in which the assessment is made. The pro rata share shall be the proportion which the broker-dealer and the number of its agents in this state bears to the aggregate number of broker-dealers and agents in this state as shown by records maintained by or on behalf of the commissioner. The pro rata share may include the costs of any examinations, audit, or investigation provided for in subdivision (r).

(3) On or before the 30th day of May in each year, the commissioner shall notify each broker-dealer by mail of the amount assessed and levied against it and that amount shall be paid within 20 days thereafter. If payment is not made within 20 days, the commissioner shall assess and collect a penalty in addition to the assessment, of 1 percent of the assessment for each month or part of a month that the payment is delayed or withheld.

(4) In the levying and collection of the assessment, a broker-dealer shall not be assessed for, nor be permitted to pay, less than seventy-five dollars ($75) per year.

(5) In determining the amount assessed, the commissioner shall consider all appropriations from the General Fund for the support of the broker-dealer program under this division and all reimbursements applicable to the administration of the broker-dealer program under this division.

(6) If a broker-dealer fails to pay the assessment on or before the 30th day of June following the day upon which payment is due, the commissioner may by order summarily suspend or revoke the certificate issued to the broker-dealer. If, after that order is made, a request for hearing is filed in writing and a hearing is not held within 60 days thereafter, the order is deemed rescinded as of its effective date. During any period when its certificate is revoked or suspended, a broker-dealer shall not conduct business pursuant to this division except as may be permitted by order of the commissioner; provided, however, that the revocation, suspension, or surrender of a certificate shall not affect the powers of the commissioner as provided under this division.

(p) The commissioner shall charge a fee of twenty-five dollars ($25) for the filing of a notice or report required by rule adopted pursuant to subdivision (b) of Section 25210.

(q) The fee for filing an application for an investment adviser under Section 25231 is one hundred twenty-five dollars ($125), and payment of this amount shall keep the certificate, if granted, in effect during the calendar year during which it is granted. Every investment adviser who has secured from the commissioner a certificate shall, in order to keep the certificate in effect for an additional period, pay a renewal fee of one hundred twenty-five dollars ($125) on or before the 15th day of December preceding the additional period.

(r) The fee for any examination, audit, or investigation is the actual amount of the salary or other compensation paid to the

persons making the examination, audit, or investigation plus the actual amount of expenses including overhead reasonably incurred in the performance of the work.

(s) The fee for any hearing held by the commissioner pursuant to Section 25142 shall be the sum determined by the commissioner to cover the actual expense of noticing and holding the hearing.

(t) The commissioner may fix by rule a reasonable charge for any publications issued under his or her authority. The charges shall not apply to reports of the commissioner in the ordinary course of distribution.

(u) The fee for filing an offer under subdivision (b) of Section 25507 shall be the amount of filing fee payable under subdivision (e), (f), (h) or (i) of this section if an application had been filed to qualify the transaction in which the securities upon which the offer is to be made were sold in violation of the qualification provisions of this law.

(v) The fee for filing an application for exemption pursuant to subdivision (*l*) of Section 25100 is two hundred fifty dollars ($250).

(w) The commissioner may by rule require payment of a fee for filing a notice or report required by a rule adopted pursuant to Section 25105. The fee required in connection with a transaction as defined by that rule shall not exceed the fees specified in subdivision (c) based on the value of the securities sold, but the commissioner may permit a single notice for more than one transaction.

SEC. 2. Section 13978.6 of the Government Code is amended to read:

13978.6. (a) The Secretary of the Business, Transportation and Housing Agency shall be generally responsible for the sound fiscal management of each department, office, or other unit within the agency. The secretary shall review and approve the proposed budget of each such department, office, or other unit. The secretary shall hold the head of each such department, office, or other unit responsible for management control over the administrative, fiscal, and program performance of his or her department, office, or other unit. The secretary shall review the operations and evaluate the performance at appropriate intervals of each such department, office, or other unit, and shall seek continually to improve the organization structure, the operating policies, and the management information systems of each such department, office, or other unit.

(b) There is in the Business, Transportation, and Housing Agency a Department of Corporations, which has the responsibility for administering various laws. In order to effectively support the Department of Corporations in the administration of these laws, there is hereby established the State Corporations Fund. All expenses and salaries of the Department of Corporations shall be paid out of the State Corporations Fund. Therefore, notwithstanding any provision of any law administered by the Department of Corporations declaring that fees, reimbursements, assessments, or other money or amounts charged and collected by the Department of Corporations under these laws are to be delivered or transmitted

to the Treasurer and deposited to the credit of the General Fund, on and after July 1, 1992, all fees, reimbursements, assessments, and other money or amounts charged and collected under these laws and attributable to the 1992–93 fiscal year and subsequent fiscal years shall be delivered or transmitted to the Treasurer and deposited to the credit of the State Corporations Fund.

SEC. 3. There is hereby appropriated from the General Fund to the Department of Corporations, in augmentation of Item 2180-001-001 of the Budget Act of 1991 the lesser of the amount of the fee increases authorized by Section 1 of this act and realized in the 1991–92 fiscal year, or the amount of any reductions allocated to the Department of Corporations pursuant to Sections 1.20 and 3.90 of the Budget Act of 1991.

SEC. 4. Section 2 of this act shall become operative July 1, 1992.

CHAPTER 1019

An act to amend Sections 1835, 2340, 2342, 2620.2, 2628, and 7666 of, and to add Sections 1834 and 2313 to, the Probate Code, relating to estates.

[Approved by Governor October 13, 1991 Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 1834 is added to the Probate Code, to read:

1834. (a) Before letters are issued, the conservator (other than a trust company or a public conservator) shall file an acknowledgment of receipt of (1) a statement of duties and liabilities of the office of conservator, and (2) a copy of the conservatorship information required under Section 1835. The acknowledgment and the statement shall be in the form prescribed by the Judicial Council.

(b) The court may by local rules require the acknowledgment of receipt to include the conservator's social security number and driver's license number, if any, provided that the court ensures their confidentiality.

(c) The statement of duties and liabilities prescribed by the Judicial Council shall not supersede the law on which the statement is based.

SEC. 2. Section 1835 of the Probate Code is amended to read:

1835. (a) Every county, either through the appropriate court or the office of the public conservator, shall provide all private conservators with written information concerning a conservator's rights, duties, limitations, and responsibilities under this division.

(b) The information to be provided shall include, but need not be limited to, the following:

(1) The rights, duties, limitations, and responsibilities of a

conservator.

(2) The rights of a conservatee.

(3) How to assess the needs of the conservatee.

(4) How to use community-based services to meet the needs of the conservatee.

(5) How to ensure that the conservatee is provided with the least restrictive possible environment.

(6) The court procedures and processes relevant to conservatorships.

(7) The procedures for inventory and appraisal, and the filing of accounts.

(c) An information package shall be developed by the Judicial Council, after consultation with the following organizations or individuals:

(1) The California State Association of Public Administrators, Public Guardians, and Public Conservators, or other comparable organizations.

(2) The State Bar.

(3) Individuals or organizations, approved by the Judicial Council, who represent court investigators, specialists with experience in performing assessments and coordinating community-based services, and legal services programs for the elderly.

(d) The failure of any court, public guardian, public officer, or public agency, or any employee or agent thereof, to provide information to a conservator as required by this section does not:

(1) Relieve the conservator of any of the conservator's duties as required by this division.

(2) Make the court, public guardian, public officer, or public agency, or the employee or agent thereof, liable, in either a personal or official capacity, for damages to a conservatee, conservator, the conservatorship of a person or an estate, or any other person or entity.

(e) The information package shall be made available to individual counties. The Judicial Council shall periodically update the information package when changes in the law warrant revision. The revisions shall be provided to individual counties.

(f) To cover the costs of providing the written information required by this section, a county may charge each private conservator a fee, not to exceed twenty dollars ($20).

SEC. 3. Section 2313 is added to the Probate Code, to read:

2313. Except in temporary conservatorships, a conservator of the estate shall record a certified copy of the letters with the county recorder's office in each county in which the conservatee owns an interest in real property, including a security interest. The conservator shall record the letters as soon as practicable after they are issued, but no later than 90 days after the conservator is appointed. A temporary conservator of the estate may record the letters if the conservator deems it appropriate.

SEC. 4. Section 2340 of the Probate Code is amended to read:

2340. No superior court may appoint a private professional conservator, or permit any person to continue to serve as a private professional conservator, pursuant to Chapter 5 (commencing with Section 2350) or Chapter 6 (commencing with Section 2400) unless the conservator has filed the information required by Sections 2342 and 2343 with the county clerk in each county where a petition for appointment has been filed.

SEC. 5. Section 2342 of the Probate Code is amended to read:

2342. (a) All private professional conservators shall file annually with the county clerk a statement, under penalty of perjury, containing the following information:

(1) His or her educational background and professional experience.

(2) At least three professional references.

(3) The names of the conservator's current conservatees.

(4) The aggregate dollar value of all assets currently under the conservator's supervision.

(5) The conservator's addresses and telephone numbers for his or her place of business and place of residence.

(6) Whether the conservator has ever been removed for cause as conservator or has resigned as conservator in a specific case, the circumstances causing that removal or resignation, and the case names, court locations, and case numbers.

(7) The case names, court locations, and case numbers of all conservatorship cases which are closed for which the private professional conservator served as the conservator.

(b) Upon filing of a petition for appointment, a private professional conservator shall state that he or she is a private professional conservator, and that the information required by this section is on file with the county clerk.

(c) The county clerk shall order a background fingerprint check from the Department of Justice and may request a background fingerprint check from the Federal Bureau of Investigation on each private professional conservator. The background check shall include a record of all arrests resulting in conviction and all arrests for which final disposition is pending. The Department of Justice shall retain these fingerprints in its files and shall provide any subsequent arrest information to the county clerk pursuant to Section 11105.2 of the Penal Code until notified by the county clerk that the person is no longer serving in the capacity of a private professional conservator. The superior court shall review the background fingerprint check prior to the appointment of a private professional conservator. The court shall review annual updates to the criminal background check on persons currently serving in the capacity of a private professional conservator under the court's jurisdiction. The background fingerprint check may be dispensed with by the court if the petitioner was appointed as a private professional conservator, or served in the capacity of a private professional conservator, during the previous year and a background

fingerprint check was previously made.

(d) The information required by this section shall be made available to the court for any purpose, including the determination of the appropriateness of appointing or continuing the appointment of, or removing, the conservator, but shall otherwise be kept confidential.

(e) This section applies to all private professional conservators regardless of the date of appointment.

SEC. 6. Section 2620.2 of the Probate Code is amended to read:

2620.2. (a) Whenever the conservator has failed to file an account as required by Section 2620, the court shall require that written notice be given to the conservator and the attorney of record for the conservatorship directing the conservator to file an account and to set the account for hearing before the court within 60 days of the date of the notice or, if the conservator is a public agency, within 120 days of the date of the notice.

(b) Should the conservator fail to file the account and set the account for hearing within the time specified in subdivision (a), unless that time has been extended for good cause by court order, a citation shall be issued, served, and returned, requiring the conservator to appear at court and show cause why he or she should not be punished for contempt.

(c) If the conservator does not file an account and set the account for hearing as required by Section 2620 after having been cited under subdivision (b), the conservator may be punished for contempt or removed as conservator, or both, in the discretion of the court.

SEC. 7. Section 2628 of the Probate Code is amended to read:

2628. (a) As used in this section, "public benefit payments" means payments received or to be received under either or both of the following:

(1) Part 3 (commencing with Section 11000) of, Part 4 (commencing with Section 16000) of, or Part 5 (commencing with Section 17000) of, Division 9 of the Welfare and Institutions Code.

(2) Subchapter II (commencing with Section 401) of, or Part A of Subchapter XVI (commencing with Section 1382) of, Chapter 7 of Title 42 of the United States Code.

(b) The court may make an order that the guardian or conservator need not present the accounts otherwise required by this chapter so long as all of the following conditions are satisfied:

(1) The estate at the beginning and end of the accounting period for which an account is otherwise required consisted of property, exclusive of the residence of the ward or conservatee, of a total net value of less than five thousand dollars ($5,000).

(2) The income of the estate for each month of the accounting period, exclusive of public benefit payments, was less than seven hundred fifty dollars ($750).

(3) All income of the estate during the accounting period, if not retained, was spent for the benefit of the ward or conservatee.

(c) Notwithstanding that the court has made an order under

subdivision (b), the ward or conservatee or any interested person may petition the court for an order requiring the guardian or conservator to present an account as otherwise required by this article or the court on its own motion may make such an order. An order under this subdivision may be made ex parte or on such notice of hearing as the court in its discretion requires.

(d) For any accounting period during which all of the conditions of subdivision (b) are not satisfied, the guardian or conservator shall present the account as otherwise required by this article.

SEC. 8. Section 7666 of the Probate Code is amended to read:

7666. (a) Except as provided in Section 7623 and in subdivision (b), the compensation payable to the public administrator and the attorney, if any, for the public administrator for the filing of an application pursuant to this article and for performance of any duty or service connected therewith is that set out in Part 7 (commencing with Section 10800).

(b) The public administrator is entitled to a minimum compensation of six hundred dollars ($600).

SEC. 9. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1020

An act to amend Section 12090 of the Insurance Code, relating to insurance.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 12090 of the Insurance Code is amended to read:

12090. (a) An admitted surety insurer shall not become surety on any one undertaking, or accept reinsurance on such undertaking, when its liability thereon, in excess of the amount reinsured by it in an admitted insurer, amounts to more than ten percent of its capital and surplus as shown by its last statement on file in the office of the

commissioner.

(b) In determining its liability on an undertaking for purposes of subdivision (a), an admitted insurer may reduce its liability by either or both of the following:

(1) Deposits with the surety insurer, in a manner acceptable to the commissioner, or by conveyance to it in trust for its protection, of assets that would qualify as admitted assets.

(2) A clean and irrevocable letter of credit acceptable to the commissioner.

CHAPTER 1021

An act to amend Section 16851 of the Government Code, relating to state bonds.

[Approved by Governor October 13, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 16851 of the Government Code is amended to read:

16851. As used in this chapter, the following definitions apply:

(a) "Awarding department" means any agency, department, constitutional officer, governmental entity, or other officer or entity of the state empowered by law to issue bonds on behalf of the State of California.

(b) "Bonds" means bonds, notes, warrants, certificates of participation, and other evidences of indebtedness issued by or on behalf of the State of California.

(c) "Contract" includes any contract, agreement, or joint agreement to provide professional bond services to the State of California or an awarding department.

(d) "Contractor" means any provider of professional bond services who enters into a contract with an awarding department.

(e) "Foreign corporation," "foreign firm," or "foreign-based business" means a business entity that is incorporated or has its principal headquarters located outside the United States.

(f) "Goal" means a numerically expressed objective that awarding departments and providers of professional bond services are required to make efforts to achieve.

(g) "Management and control" means effective and demonstrable management of the business entity.

(h) "Minority" means an ethnic person of color including American Indians, Asians (including, but not limited to, Chinese, Japanese, Koreans, Pacific Islanders, Samoans, and Southeast Asians), Blacks, Filipinos, and Hispanics. A minority must be a citizen of the United States or a lawfully admitted permanent resident as defined

in Title 8 U.S.C. 1101(a)(20).

(i) "Minority business enterprise" means a business concern that meets all of the following requirements:

(1) A sole proprietorship owned by a minority; a firm or partnership, at least 51 percent of the voting stock or partnership interests of which are owned by one or more minorities; a subsidiary which is wholly owned by a parent corporation but only if at least 51 percent of the voting stock of the parent corporation is owned by one or more minorities; or a joint venture in which at least 51 percent of the joint venture's management of the joint venture business and at least 51 percent of the joint venture's earnings are controlled or retained by the minority participants in the joint venture.

(2) Management and control of daily business operations by one or more minorities although not necessarily the same minorities who are owners of the business.

(3) A sole proprietorship, corporation, joint venture, or partnership with its home office located in the United States, which is not a branch or subsidiary of a foreign corporation, foreign firm, or other foreign-based business.

(j) "Professional bond services" include services as financial advisers, bond counsel, underwriters in negotiated transactions, underwriter's counsel, financial printers, feasibility consultants, and other professional services related to the issuance and sale of bonds.

(k) A woman owner of a women business enterprise must be a citizen of the United States or a lawfully admitted permanent resident as defined in Title 8 U.S.C. 1101(a)(20).

"Women business enterprise" means a business concern that is all of the following:

(1) A sole proprietorship owned by a woman; a firm or partnership, at least 51 percent of the voting stock or partnership interests of which are owned by one or more women; a subsidiary which is wholly owned by a parent corporation but only if at least 51 percent of the voting stock of the parent corporation is owned by one or more women; or a joint venture in which at least 51 percent of the joint venture's management of the joint venture business and at least 51 percent of the joint venture's earnings are controlled or retained by the women participants in the joint venture.

(2) Management and control of daily business operations by one or more women although not necessarily the same women who are the owners of the business.

(3) A sole proprietorship, corporation, joint venture, or partnership with its home office located in the United States, which is not a branch or subsidiary of a foreign corporation, foreign firm, or other foreign-based business.

(*l*) "Minority business enterprise" and "women business enterprise," include an enterprise of which 50 percent is owned and controlled by one or more minorities and the other 50 percent is owned and controlled by one or more women, or, in the case of a publicly owned business, 50 percent of the stock of which is owned

and controlled by one or more minorities and the other 50 percent is owned and controlled by one or more women. Any business enterprise so defined may be counted as either a minority business enterprise or a women business enterprise for purposes of meeting the participation goals, but no one such business enterprise shall be counted as meeting the participation goals in both categories.

CHAPTER 1022

An act to amend Section 12031 of, and to add Section 12031.5 to, the Penal Code, relating to firearms.

[Approved by Governor October 13, 1991 Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 12031 of the Penal Code is amended to read:

12031. (a) Except as provided in subdivision (b), (c), or (d), every person who carries a loaded firearm on his or her person or in a vehicle while in any public place or on any public street in an incorporated city or in any public place or on any public street in a prohibited area of unincorporated territory is guilty of a misdemeanor.

Notwithstanding subdivisions 2 and 3 of Section 836, a peace officer may make an arrest without a warrant:

(1) When the person arrested has violated this section, although not in the officer's presence.

(2) Whenever the officer has reasonable cause to believe that the person to be arrested has violated this section, whether or not this section has, in fact, been violated.

Every person convicted under this section who has previously been convicted of an offense enumerated in Section 12001.6, or of any crime made punishable under this chapter, shall serve a term of at least three months in a county jail, or, if granted probation, or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned for a period of at least three months.

The court shall apply the three-month minimum sentence except in unusual cases where the interests of justice would best be served by granting probation or suspending the imposition or execution of sentence without the minimum imprisonment required in this subdivision or by granting probation or suspending the imposition or execution of sentence with conditions other than those set forth in this subdivision, in which case, the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

(b) Subdivision (a) shall not apply to any of the following:

(1) Peace officers listed in Section 830.1 or 830.2, whether active or honorably retired, other duly appointed peace officers, honorably retired peace officers listed in subdivision (c) of Section 830.5, full-time paid peace officers of other states and the federal government who are carrying out official duties while in California, or any person summoned by any of those officers to assist in making arrests or preserving the peace while the person is actually engaged in assisting that officer. Any peace officer described in this paragraph who has been honorably retired shall be issued an identification certificate by the agency from which the officer has retired.

Any officer retired after January 1, 1981, shall have an endorsement on the identification certificate stating that the issuing agency approves the officer's carrying of a loaded firearm. The endorsement shall also include the date when the endorsement is to be renewed.

No endorsement or renewal endorsement issued pursuant to paragraph (2) shall be effective unless it has a "CCW Approved" stamp on it, except that any peace officer listed in subdivision (f) of Section 830.2 or in subdivision (c) of Section 830.5, who is retired between January 2, 1981, and on or before December 31, 1988, and who is authorized to carry a loaded firearm pursuant to this section, shall not be required to have a "CCW Approved" stamp until the time of the issuance, on or after January 1, 1989, of a renewal endorsement pursuant to paragraph (2).

(2) A retired peace officer who retired after January 1, 1981, shall petition the issuing agency for renewal of his or her privilege to carry a loaded firearm every five years. An honorably retired peace officer, described in paragraph (1), retired prior to January 1, 1981, shall not be required to obtain an endorsement from the issuing agency to carry a firearm. The agency from which a peace officer is honorably retired may, upon initial retirement of the peace officer, or at any time subsequent thereto, deny or revoke, for good cause, the retired officer's privilege to carry a firearm.

(3) An honorably retired peace officer listed in subdivision (c) of Section 830.5 authorized to carry loaded firearms by this subdivision shall meet the training requirements of Section 832 and shall qualify with the firearm at least annually. The individual retired peace officer shall be responsible for maintaining his or her eligibility to carry a loaded firearm. The Department of Justice shall provide subsequent arrest notification pursuant to Section 11105.2 regarding honorably retired peace officers listed in subdivision (c) of Section 830.5 to the agency from which the officer has retired.

(4) Members of the military forces of this state or of the United States engaged in the performance of their duties.

(5) Persons who are using target ranges for the purpose of practice shooting with a firearm or who are members of shooting clubs while hunting on the premises of those clubs.

(6) The carrying of concealable weapons by persons who are authorized to carry those weapons pursuant to Article 3

(commencing with Section 12050) of Chapter 1 of Title 2 of Part 4.

(7) Armored vehicle guards, as defined in Section 7521 of the Business and Professions Code, (A) if hired prior to January 1, 1977; or (B) if hired on or after that date, if they have received a firearms qualification card from the Department of Consumer Affairs, in each case while acting within the course and scope of their employment.

(8) Upon approval of the sheriff of the county in which they reside, honorably retired federal officers or agents of federal law enforcement agencies including, but not limited to, the Federal Bureau of Investigation, the Secret Service, the United States Customs Service, the Federal Bureau of Alcohol, Tobacco, and Firearms, the Federal Bureau of Narcotics, the Drug Enforcement Administration, the United States Border Patrol, and officers or agents of the Internal Revenue Service who were authorized to carry weapons while on duty, who were assigned to duty within the state for a period of not less than one year, or who retired from active service in the state.

Retired federal officers or agents shall provide the sheriff with certification from the agency from which they retired certifying their service in the state, the nature of their retirement, and indicating the agency's concurrence that the retired federal officer or agent should be accorded the privilege of carrying a loaded firearm.

Upon approval, the sheriff shall issue a permit to the retired federal officer or agent indicating that he or she may carry a loaded firearm in accordance with this paragraph. The permit shall be valid for a period not exceeding five years, shall be carried by the retiree while carrying a loaded firearm, and may be revoked for good cause.

The sheriff of the county in which the retired federal officer or agent resides may require recertification prior to a permit renewal, and may suspend the privilege for cause. The sheriff may charge a fee necessary to cover any reasonable expenses incurred by the county.

(c) Subdivision (a) shall not apply to any of the following who have completed a regular course in firearms training approved by the Commission on Peace Officer Standards and Training:

(1) Patrol special police officers appointed by the police commission of any city, county, or city and county under the express terms of its charter who also, under the express terms of the charter, (A) are subject to suspension or dismissal after a hearing on charges duly filed with the commission after a fair and impartial trial, (B) are not less than 18 years of age nor more than 40 years of age, (C) possess physical qualifications prescribed by the commission, and (D) are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to time by the police commission.

(2) The carrying of weapons by animal control officers or zookeepers, regularly compensated as such by a governmental agency when acting in the course and scope of their employment

and when designated by a local ordinance or, if the governmental agency is not authorized to act by ordinance, by a resolution, either individually or by class, to carry the weapons, or by persons who are authorized to carry the weapons pursuant to Section 607f of the Civil Code, while actually engaged in the performance of their duties pursuant to that section.

(3) Harbor police officers designated pursuant to Section 663.5 of the Harbors and Navigation Code.

(d) Subdivision (a) shall not apply to any of the following who have been issued a certificate pursuant to Section 12033. The certificate shall not be required of any person who is a peace officer, who has completed all training required by law for the exercise of his or her power as a peace officer, and who is employed while not on duty as a peace officer.

(1) Guards or messengers of common carriers, banks, and other financial institutions while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state.

(2) Guards of contract carriers operating armored vehicles pursuant to California Highway Patrol and Public Utilities Commission authority (A) if hired prior to January 1, 1977; or (B) if hired on or after January 1, 1977, if they have completed a course in the carrying and use of firearms which meets the standards prescribed by the Department of Consumer Affairs.

(3) Private investigators and private patrol operators who are licensed pursuant to Chapter 11.5 (commencing with Section 7512) of, and alarm company operators who are licensed pursuant to Chapter 11.6 (commencing with Section 7590) of, Division 3 of the Business and Professions Code, while acting within the course and scope of their employment.

(4) Uniformed security guards or night watch persons employed by any public agency, while acting within the scope and in the course of their employment.

(5) Uniformed security guards, regularly employed and compensated in that capacity by persons engaged in any lawful business, and uniformed alarm agents employed by an alarm company operator, while actually engaged in protecting and preserving the property of their employers or on duty or en route to or from their residences or their places of employment. Security guards and alarm agents en route to or from their residences or employer-required range training. Nothing in this paragraph shall be construed to prohibit cities and counties from enacting ordinances requiring alarm agents to register their names.

(6) Uniformed employees of private patrol operators and private investigators licensed pursuant to Chapter 11.5 (commencing with Section 7512) of Division 3 of the Business and Professions Code while acting within the course and scope of their employment.

(e) In order to determine whether or not a firearm is loaded for the purpose of enforcing this section, peace officers are authorized

to examine any firearm carried by anyone on his or her person or in a vehicle while in any public place or on any public street in an incorporated city or prohibited area of an unincorporated territory. Refusal to allow a peace officer to inspect a firearm pursuant to this section constitutes probable cause for arrest for violation of this section.

(f) As used in this section, "prohibited area" means any place where it is unlawful to discharge a weapon.

(g) A firearm shall be deemed to be loaded for the purposes of this section when there is an unexpended cartridge or shell, consisting of a case which holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm; except that a muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder.

(h) Nothing in this section shall prevent any person engaged in any lawful business, including a nonprofit organization, or any officer, employee, or agent authorized by that person for lawful purposes connected with that business, from having a loaded firearm within the person's place of business, or any person in lawful possession of private property from having a loaded firearm on that property.

(i) Nothing in this section shall prevent any person from carrying a loaded firearm in an area within an incorporated city while engaged in hunting, provided that the hunting at that place and time is not prohibited by the city council.

(j) (1) Nothing in this section is intended to preclude the carrying of any loaded firearm, under circumstances where it would otherwise be lawful, by a person who reasonably believes that the person or property of himself or herself or of another is in immediate, grave danger and that the carrying of the weapon is necessary for the preservation of that person or property. As used in this subdivision, "immediate" means the brief interval before and after the local law enforcement agency, when reasonably possible, has been notified of the danger and before the arrival of its assistance.

(2) A violation of this section is justifiable when a person who possesses a firearm reasonably believes that he or she is in grave danger because of circumstances forming the basis of a current restraining order issued by a court against another person or persons who has or have been found to pose a threat to his or her life or safety. This paragraph may not apply when the circumstances involve a reciprocal restraining order issued pursuant to Section 4359 of the Civil Code absent a factual finding of a specific threat to the person's life or safety. It is not the intent of the Legislature to limit, restrict, or narrow the application of current statutory or judicial authority to apply this or other justifications to defendants charged with violating Section 12025 or of committing other similar offenses.

Upon trial for violating this section, the trier of fact shall determine

whether the defendant was acting out of a reasonable belief that he or she was in grave danger.

(k) Nothing in this section is intended to preclude the carrying of a loaded firearm by any person while engaged in the act of making or attempting to make a lawful arrest.

(*l*) Nothing in this section shall prevent any person from having a loaded weapon, if it is otherwise lawful, at his or her place of residence, including any temporary residence or campsite.

SEC. 1.1. Section 12031 of the Penal Code is amended to read:

12031. (a) (1) Except as provided in subdivision (b), (c), or (d), every person who carries a loaded firearm on his or her person or in a vehicle while in any public place or on any public street in an incorporated city or in any public place or on any public street in a prohibited area of unincorporated territory is guilty of a misdemeanor.

(2) Notwithstanding subdivisions 2 and 3 of Section 836, a peace officer may make an arrest without a warrant:

(A) When the person arrested has violated this section, although not in the officer's presence.

(B) Whenever the officer has reasonable cause to believe that the person to be arrested has violated this section, whether or not this section has, in fact, been violated.

(3) (A) Every person convicted under this section who has previously been convicted of an offense enumerated in Section 12001.6, or of any crime made punishable under this chapter, shall serve a term of at least three months in a county jail, or, if granted probation, or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned for a period of at least three months.

(B) The court shall apply the three-month minimum sentence except in unusual cases where the interests of justice would best be served by granting probation or suspending the imposition or execution of sentence without the minimum imprisonment required in this subdivision or by granting probation or suspending the imposition or execution of sentence with conditions other than those set forth in this subdivision, in which case, the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

(b) Subdivision (a) shall not apply to any of the following:

(1) Peace officers listed in Section 830.1 or 830.2, whether active or honorably retired, other duly appointed peace officers, honorably retired peace officers listed in subdivision (c) of Section 830.5, full-time paid peace officers of other states and the federal government who are carrying out official duties while in California, or any person summoned by any of those officers to assist in making arrests or preserving the peace while the person is actually engaged in assisting that officer. Any peace officer described in this paragraph who has been honorably retired shall be issued an identification

certificate by the agency from which the officer has retired. The issuing agency may charge a fee necessary to cover any reasonable expenses incurred by the agency in issuing certificates pursuant to this paragraph and paragraph (3).

Any officer retired after January 1, 1981, shall have an endorsement on the identification certificate stating that the issuing agency approves the officer's carrying of a loaded firearm.

No endorsement or renewal endorsement issued pursuant to paragraph (2) shall be effective unless it is in the format set forth in subparagraph (D) of paragraph (1) of subdivision (a) of Section 12027, except that any peace officer listed in subdivision (f) of Section 830.2 or in subdivision (c) of Section 830.5, who is retired between January 2, 1981, and on or before December 31, 1988, and who is authorized to carry a loaded firearm pursuant to this section, shall not be required to have an endorsement in the format set forth in subparagraph (D) of paragraph (1) of subdivision (a) of Section 12027 until the time of the issuance, on or after January 1, 1989, of a renewal endorsement pursuant to paragraph (2).

(2) A retired peace officer who retired after January 1, 1981, shall petition the issuing agency for renewal of his or her privilege to carry a loaded firearm every five years. An honorably retired peace officer, described in paragraph (1), retired prior to January 1, 1981, shall not be required to obtain an endorsement from the issuing agency to carry a firearm. The agency from which a peace officer is honorably retired may, upon initial retirement of the peace officer, or at any time subsequent thereto, deny or revoke, for good cause, the retired officer's privilege to carry a firearm.

(3) An honorably retired peace officer listed in subdivision (c) of Section 830.5 authorized to carry loaded firearms by this subdivision shall meet the training requirements of Section 832 and shall qualify with the firearm at least annually. The individual retired peace officer shall be responsible for maintaining his or her eligibility to carry a loaded firearm. The Department of Justice shall provide subsequent arrest notification pursuant to Section 11105.2 regarding honorably retired peace officers listed in subdivision (c) of Section 830.5 to the agency from which the officer has retired.

(4) Members of the military forces of this state or of the United States engaged in the performance of their duties.

(5) Persons who are using target ranges for the purpose of practice shooting with a firearm or who are members of shooting clubs while hunting on the premises of those clubs.

(6) The carrying of pistols, revolvers, or other firearms capable of being concealed upon the person by persons who are authorized to carry those weapons pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4.

(7) Armored vehicle guards, as defined in Section 7521 of the Business and Professions Code, (A) if hired prior to January 1, 1977; or (B) if hired on or after that date, if they have received a firearms qualification card from the Department of Consumer Affairs, in each

case while acting within the course and scope of their employment.

(8) Upon approval of the sheriff of the county in which they reside, honorably retired federal officers or agents of federal law enforcement agencies including, but not limited to, the Federal Bureau of Investigation, the Secret Service, the United States Customs Service, the Federal Bureau of Alcohol, Tobacco, and Firearms, the Federal Bureau of Narcotics, the Drug Enforcement Administration, the United States Border Patrol, and officers or agents of the Internal Revenue Service who were authorized to carry weapons while on duty, who were assigned to duty within the state for a period of not less than one year, or who retired from active service in the state.

Retired federal officers or agents shall provide the sheriff with certification from the agency from which they retired certifying their service in the state, the nature of their retirement, and indicating the agency's concurrence that the retired federal officer or agent should be accorded the privilege of carrying a loaded firearm.

Upon approval, the sheriff shall issue a permit to the retired federal officer or agent indicating that he or she may carry a loaded firearm in accordance with this paragraph. The permit shall be valid for a period not exceeding five years, shall be carried by the retiree while carrying a loaded firearm, and may be revoked for good cause.

The sheriff of the county in which the retired federal officer or agent resides may require recertification prior to a permit renewal, and may suspend the privilege for cause. The sheriff may charge a fee necessary to cover any reasonable expenses incurred by the county.

(c) Subdivision (a) shall not apply to any of the following who have completed a regular course in firearms training approved by the Commission on Peace Officer Standards and Training:

(1) Patrol special police officers appointed by the police commission of any city, county, or city and county under the express terms of its charter who also, under the express terms of the charter, (A) are subject to suspension or dismissal after a hearing on charges duly filed with the commission after a fair and impartial trial, (B) are not less than 18 years of age nor more than 40 years of age, (C) possess physical qualifications prescribed by the commission, and (D) are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to time by the police commission.

(2) The carrying of weapons by animal control officers or zookeepers, regularly compensated as such by a governmental agency when acting in the course and scope of their employment and when designated by a local ordinance or, if the governmental agency is not authorized to act by ordinance, by a resolution, either individually or by class, to carry the weapons, or by persons who are authorized to carry the weapons pursuant to Section 607f of the Civil Code, while actually engaged in the performance of their duties

pursuant to that section.

(3) Harbor police officers designated pursuant to Section 663.5 of the Harbors and Navigation Code.

(d) Subdivision (a) shall not apply to any of the following who have been issued a certificate pursuant to Section 12033. The certificate shall not be required of any person who is a peace officer, who has completed all training required by law for the exercise of his or her power as a peace officer, and who is employed while not on duty as a peace officer.

(1) Guards or messengers of common carriers, banks, and other financial institutions while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state.

(2) Guards of contract carriers operating armored vehicles pursuant to California Highway Patrol and Public Utilities Commission authority (A) if hired prior to January 1, 1977; or (B) if hired on or after January 1, 1977, if they have completed a course in the carrying and use of firearms which meets the standards prescribed by the Department of Consumer Affairs.

(3) Private investigators and private patrol operators who are licensed pursuant to Chapter 11.5 (commencing with Section 7512) of, and alarm company operators who are licensed pursuant to Chapter 11.6 (commencing with Section 7590) of, Division 3 of the Business and Professions Code, while acting within the course and scope of their employment.

(4) Uniformed security guards or night watch persons employed by any public agency, while acting within the scope and in the course of their employment.

(5) Uniformed security guards, regularly employed and compensated in that capacity by persons engaged in any lawful business, and uniformed alarm agents employed by an alarm company operator, while actually engaged in protecting and preserving the property of their employers or on duty or en route to or from their residences or their places of employment, and security guards and alarm agents en route to or from their residences or employer-required range training. Nothing in this paragraph shall be construed to prohibit cities and counties from enacting ordinances requiring alarm agents to register their names.

(6) Uniformed employees of private patrol operators and private investigators licensed pursuant to Chapter 11.5 (commencing with Section 7512) of Division 3 of the Business and Professions Code while acting within the course and scope of their employment.

(e) In order to determine whether or not a firearm is loaded for the purpose of enforcing this section, peace officers are authorized to examine any firearm carried by anyone on his or her person or in a vehicle while in any public place or on any public street in an incorporated city or prohibited area of an unincorporated territory. Refusal to allow a peace officer to inspect a firearm pursuant to this section constitutes probable cause for arrest for violation of this

section.

(f) As used in this section, "prohibited area" means any place where it is unlawful to discharge a weapon.

(g) A firearm shall be deemed to be loaded for the purposes of this section when there is an unexpended cartridge or shell, consisting of a case which holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm; except that a muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder.

(h) Nothing in this section shall prevent any person engaged in any lawful business, including a nonprofit organization, or any officer, employee, or agent authorized by that person for lawful purposes connected with that business, from having a loaded firearm within the person's place of business, or any person in lawful possession of private property from having a loaded firearm on that property.

(i) Nothing in this section shall prevent any person from carrying a loaded firearm in an area within an incorporated city while engaged in hunting, provided that the hunting at that place and time is not prohibited by the city council.

(j) (1) Nothing in this section is intended to preclude the carrying of any loaded firearm, under circumstances where it would otherwise be lawful, by a person who reasonably believes that the person or property of himself or herself or of another is in immediate, grave danger and that the carrying of the weapon is necessary for the preservation of that person or property. As used in this subdivision, "immediate" means the brief interval before and after the local law enforcement agency, when reasonably possible, has been notified of the danger and before the arrival of its assistance.

(2) A violation of this section is justifiable when a person who possesses a firearm reasonably believes that he or she is in grave danger because of circumstances forming the basis of a current restraining order issued by a court against another person or persons who has or have been found to pose a threat to his or her life or safety. This paragraph may not apply when the circumstances involve a reciprocal restraining order issued pursuant to Section 4359 of the Civil Code absent a factual finding of a specific threat to the person's life or safety. It is not the intent of the Legislature to limit, restrict, or narrow the application of current statutory or judicial authority to apply this or other justifications to defendants charged with violating Section 12025 or of committing other similar offenses.

Upon trial for violating this section, the trier of fact shall determine whether the defendant was acting out of a reasonable belief that he or she was in grave danger.

(k) Nothing in this section is intended to preclude the carrying of a loaded firearm by any person while engaged in the act of making or attempting to make a lawful arrest.

(*l*) Nothing in this section shall prevent any person from having a loaded weapon, if it is otherwise lawful, at his or her place of residence, including any temporary residence or campsite.

SEC. 2. Section 12031.5 is added to the Penal Code, to read:

12031.5. (a) Except as provided in subdivision (b), every person who has been convicted previously of violating Section 12031 and who carries a loaded firearm on his or her person or in a vehicle while in any public place or on any public street in an incorporated city or in a prohibited area of unincorporated territory is guilty of a public offense, punishable by imprisonment in the state prison, or in a county jail not exceeding one year.

(b) Notwithstanding subdivision (a), any person who has been convicted previously of violating Section 12031 and who violates subdivision (a) of this section and who is actively engaged in, or going to or from, a recreational, sport, including, but not limited to, competitive shooting, or hunting activity which may require the use of a firearm is guilty of a misdemeanor. As used in this subdivision, "going to or from" includes a reasonable diversion from the direct route of travel.

(c) A violation of this section which is punished by imprisonment in a county jail not exceeding one year shall not constitute a conviction of a crime punishable by imprisonment for a term exceeding one year for the purposes of determining federal firearms eligibility under Section 922(g) (1) of Title 18 of the United States Code.

SEC. 3. Section 1.1 of this bill incorporates amendments to Section 12031 of the Penal Code proposed by both this bill and AB 1904. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 12031 of the Penal Code, and (3) this bill is enacted after AB 1904 in which case Section 1 of this bill shall not become operative.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1023

An act to add Section 701.3 to the Public Utilities Code, relating to energy resources conservation.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. The Legislature finds and declares the following:

(a) An interim electricity utility set-aside program for renewable energy resources is one way to diminish reliance on carbon-intensive resources, stimulate in-state economic growth, and enhance the continued diversification of California's energy resource mix.

(b) Once the Public Utilities Commission includes all economic and environmental costs, including the value of fuel and technology diversity, into California's competitive bidding process for new electric generation resources, the need for a renewable energy resources set-aside program may be reduced.

SEC. 2. Section 701.3 is added to the Public Utilities Code, to read:

701.3. Until the commission completes an electric generation procurement methodology that values the environmental and diversity costs and benefits associated with various generation technologies, the commission shall direct that a specific portion of future electrical generating capacity needed for California be reserved or set aside for renewable resources.

CHAPTER 1024

An act to amend Section 7251.1 of, and to add Chapter 3.5 (commencing with Section 7288.1) to Part 1.7 of Division 2 of, the Revenue and Taxation Code, and to repeal Section 3 of Chapter 1257 of the Statutes of 1987, relating to taxation.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 7251.1 of the Revenue and Taxation Code is amended to read:

7251.1. The combined rate of all taxes imposed pursuant to this part in any county shall not exceed 1.5 percent. No tax shall be considered in accordance with this part if, upon its adoption, the combined rate will exceed 1.5 percent.

SEC. 2. Chapter 3.5 (commencing with Section 7288.1) is added

to Part 1.7 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 3.5. LOCAL PUBLIC FINANCE

7288.1. A local public finance authority shall be established for the purpose of financing drug abuse prevention, crime prevention, health care services, and public education in any county if either, or both, of the following occur:

(a) The county board of supervisors adopts a resolution declaring its intent to propose an increase in the transactions and use tax in the county pursuant to this chapter.

(b) The county superintendent of schools receives resolutions from a majority of the governing boards of the school districts in the county declaring their intent to propose an increase in the transactions and use tax in the county pursuant to this chapter.

7288.2. The local public finance authority shall be governed by a board of directors. The board of directors shall consist of the following members:

(a) Five members of the county boards of supervisors.

(b) Five members of governing boards of school districts in the county.

(1) Governing board members shall be selected in a manner determined by the county board of education, provided that:

(A) If there are five or more school districts in the county, no school district shall have more than one member on the board of directors.

(B) If there are fewer than five school districts in the county, each school district shall have at least one member on the board of directors.

(2) For purposes of this subdivision, the county office of education shall be deemed to be a school district.

7288.3. A local public finance authority may adopt an ordinance imposing, for the authority's general purpose, a transactions and use tax that conforms with Part 1.6 (commencing with Section 7251) at a rate of 0.25 percent or 0.5 percent, if all of the following requirements are met:

(a) The ordinance specifies how the proceeds of the tax will be allocated among drug abuse prevention, crime prevention, health care services, and public education purposes. Funds allocated for public education purposes shall be governed by Chapter 8 (commencing with Section 42400) of Part 24 of Division 3 of Title 2 of the Education Code.

(b) The ordinance proposing the tax is approved by a two-thirds vote of the board of directors of the authority, provided that the two-thirds majority includes at least three of the members described in subdivision (a) of Section 7288.2, and at least three of the members described in subdivision (b) of Section 7288.2.

(c) The ordinance proposing the tax is approved by a majority of the qualified voters of the county voting on the measure.

7288.4. (a) A local public finance authority may exercise all powers necessary to perform the collection, administration, and allocation duties with respect to the transactions and use tax in a manner consistent with Part 1.6 (commencing with Section 7251).

(b) With respect to the approval by the voters of an ordinance specified in Section 7288.3, if the ordinance so requests, the county shall call a special election for that purpose to be held on a date not less than 88 nor more than 103 days after the ordinance is adopted by the board of directors of the local public finance authority.

(c) The county shall be reimbursed by the local public finance authority for all costs of conducting elections for purposes of imposing a transactions and use tax pursuant to this chapter. In the event the ordinance imposing the tax is adopted by the voters, the costs of conducting the election may be reimbursed from the proceeds of the tax. In the event the ordinance imposing the tax is not adopted by the voters, the costs of conducting the election shall be reimbursed by the local agencies within the county in proportion to the revenues each agency would have received if the ordinance had been adopted, during the first year following adoption of the ordinance.

(d) Notwithstanding any other provision of law, the imposition and collection of any tax approved by the voters at an election held pursuant to this chapter shall commence no sooner than the first day of the first calendar quarter commencing more than 90 days after the election results are certified by the county registrar.

7288.5. For purposes of this chapter, a "school district" includes a community college district.

7288.6. No tax imposed pursuant to this chapter shall become operative before the later of the following dates:

(a) January 1, 1993.

(b) The date that Sections 6051.5 and 6201.5 cease to be operative pursuant to those sections.

SEC. 3. Section 3 of Chapter 1257 of the Statutes of 1987 is repealed.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 5. This act shall become operative on January 1, 1992, and shall become operative only if Assembly Bill 17 of the 1991–92 First Extraordinary Session is chaptered.

CHAPTER 1025

An act to amend Sections 3520, 3707, and 3708 of the Elections Code, relating to elections.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 3520 of the Elections Code is amended to read:

3520. (a) Each section of the petition shall be filed with the elections official of the county or city and county in which it was circulated, but all sections circulated in any county or city and county shall be filed at the same time. Once filed, no petition section shall be amended except by order of a court of competent jurisdiction.

(b) Within eight days, excluding Saturdays, Sundays, and holidays, after the filing of the petition, the elections official shall determine the total number of signatures affixed to the petition and shall transmit this information to the Secretary of State. If the total number of signatures filed with all elections officials is less than 100 percent of the number of qualified voters required to find the petition sufficient, the Secretary of State shall so notify the proponents and the elections officials and no further action shall be taken in regard to the petition.

(c) If the number of signatures filed with all elections officials is 100 percent or more of the number of qualified voters needed to declare the petition sufficient, the Secretary of State shall immediately so notify the elections officials.

(d) Within 30 days after this notification, excluding Saturdays, Sundays, and holidays, the elections official shall determine the number of qualified voters who have signed the petition. If more than 500 names have been signed on sections of the petition filed with an elections official, the elections official shall use a random sampling technique for verification of signatures, as determined by the Secretary of State. The random sample of signatures to be verified shall be drawn in such a manner that every signature filed with the elections official shall be given an equal opportunity to be included in the sample. The random sampling shall include an examination of at least 500 or 3 percent of the signatures, whichever is greater. In determining from the records of registration what number of qualified voters have signed the petition, the elections official may use the duplicate file of affidavits of registered voters or the facsimiles of voter's signatures, provided that the method of preparing and displaying the facsimiles complies with law.

(e) The elections official, upon the completion of the examination, shall immediately attach to the petition, except the signatures thereto appended, a certificate properly dated, showing

the result of the examination and shall immediately transmit the petition, together with the certificate, to the Secretary of State. A copy of this certificate shall be filed in the elections official's office.

(f) If the certificates received from all elections officials by the Secretary of State establish that the number of valid signatures does not equal 95 percent of the number of qualified voters needed to find the petition sufficient, the petition shall be deemed to have failed to qualify, and the Secretary of State shall immediately so notify the proponents and the elections officials.

(g) If the certificates received from all elections officials by the Secretary of State total more than 110 percent of the number of qualified voters needed to find the petition sufficient, the petition shall be deemed to qualify as of the date of receipt by the Secretary of State of certificates showing the petition to have reached the 110 percent, and the Secretary of State shall immediately so notify the proponents and the elections officials.

SEC. 2. Section 3707 of the Elections Code is amended to read:

3707. Except as provided in Section 3708, within 30 days from the date of filing of the petition, excluding Saturdays, Sundays, and holidays, the elections official shall examine the petition, and from the records of registration ascertain whether or not the petition is signed by the requisite number of voters. A certificate showing the results of this examination shall be attached to the petition.

In determining the number of valid signatures, the elections official may use the duplicate file of affidavits maintained, or may check the signatures against facsimiles of voters' signatures, provided that the method of preparing and displaying the facsimiles complies with law.

The elections official shall notify the proponents of the petition as to the sufficiency or insufficiency of the petition.

If the petition is found insufficient, no further action shall be taken. However, the failure to secure sufficient signatures, shall not preclude the filing of a new petition on the same subject, at a later date.

If the petition is found sufficient, the elections official shall certify the results of the examination to the board of supervisors at the next regular meeting of the board.

SEC. 3. Section 3708 of the Elections Code is amended to read:

3708. (a) Within 30 days from the date of filing of the petition, excluding Saturdays, Sundays, and holidays, if, from the examination of petitions pursuant to Section 3707, more than 500 signatures have been signed on the petition, the elections official may use a random sampling technique for verification of signatures. The random sample of signatures to be verified shall be drawn in such a manner that every signature filed with the elections official shall be given an equal opportunity to be included in the sample. Such a random sampling shall include an examination of at least 500 or 3 percent of the signatures, whichever is greater.

(b) If the statistical sampling shows that the number of valid

signatures is within 95 to 110 percent of the number of signatures of qualified voters needed to declare the petition sufficient, the elections official shall examine and verify each signature filed.

(c) In determining from the records of registration, what number of valid signatures are signed on the petition, the elections official may use the duplicate file of affidavits maintained, or may check the signatures against facsimiles of voters' signatures, provided that the method of preparing and displaying the facsimiles complies with law.

(d) The elections official shall attach to the petition, a certificate showing the result of this examination, and shall notify the proponents of either the sufficiency or insufficiency of the petition.

(e) If the petition is found insufficient, no action shall be taken on the petition. However, the failure to secure sufficient signatures shall not preclude the filing later of an entirely new petition to the same effect.

(f) If the petition is found to be sufficient, the elections official shall certify the results of the examination to the board of supervisors at the next regular meeting of the board.

CHAPTER 1026

An act to amend Sections 5103, 5125, and 5125.1 of the Civil Code, relating to family law.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. The Legislature finds and declares that it is the public policy of this state that marriage is an equal partnership and that spouses occupy a confidential and fiduciary relationship with each other, whereby each spouse places trust and confidence in the integrity, honesty, and fairness of the other spouse. Therefore, by this act, the Legislature intends to clarify the management standards controlling Sections 5103 and 5125 of the Civil Code.

SEC. 2. Section 5103 of the Civil Code is amended to read:

5103. (a) Subject to subdivision (b), either husband or wife may enter into any transaction with the other, or with any other person, respecting property, which either might if unmarried.

(b) Except as provided in Sections 143, 144, 146, and 16040 of the Probate Code, in transactions between themselves, a husband and wife are subject to the general rules governing fiduciary relationships which control the actions of persons occupying confidential relations with each other. This confidential relationship imposes a duty of the highest good faith and fair dealing on each spouse, and neither shall take any unfair advantage of the other. This confidential relationship is a fiduciary relationship subject to the

same rights and duties of nonmarital business partners, as provided in Sections 15019, 15020, 15021, and 15022 of the Corporations Code, including the following:

(1) Providing each spouse access at all times to any books kept regarding a transaction for the purposes of inspection and copying.

(2) Rendering upon request, true and full information of all things affecting any transaction which concerns the community property. Nothing in this section is intended to impose a duty for either spouse to keep detailed books and records of community property transactions.

(3) Accounting to the spouse, and holding as a trustee, any benefit or profit derived from any transaction by him or her without the consent of the other spouse which concerns the community property.

SEC. 3. Section 5125 of the Civil Code is amended to read:

5125. (a) Except as provided in subdivisions (b), (c), and (d) and Sections 5110.150 and 5128, either spouse has the management and control of the community personal property, whether acquired prior to or on or after January 1, 1975, with like absolute power of disposition, other than testamentary, as the spouse has of the separate estate of the spouse.

(b) A spouse may not make a gift of community personal property, or dispose of community personal property for less than fair and reasonable value, without the written consent of the other spouse. This subdivision does not apply to gifts mutually given by both spouses to third parties and to gifts given by one spouse to the other spouse.

(c) A spouse may not sell, convey, or encumber community personal property used as the family dwelling, or the furniture, furnishings, or fittings of the home, or the clothing or wearing apparel of the other spouse or minor children which is community personal property, without the written consent of the other spouse.

(d) Except as provided in subdivisions (b) and (c), and in Section 5127, a spouse who is operating or managing a business or an interest in a business that is all or substantially all community personal property has the primary management and control of the business or interest. Primary management and control means that the managing spouse may act alone in all transactions but shall give prior written notice to the other spouse of any sale, lease, exchange, encumbrance, or other disposition of all or substantially all of the personal property used in the operation of the business (including personal property used for agricultural purposes), whether or not title to that property is held in the name of only one spouse. Written notice is not, however, required when prohibited by the law otherwise applicable to the transaction.

Remedies for the failure by a managing spouse to give prior written notice as required by this subdivision are only as specified in Section 5125.1. A failure to give prior written notice shall not adversely affect the validity of a transaction nor of any interest

transferred.

(e) Each spouse shall act with respect to the other spouse in the management and control of the community property in accordance with the general rules governing fiduciary relationships which control the actions of persons having relationships of personal confidence as specified in Section 5103, until such time as the property has been divided by the parties or by a court. This duty includes the obligation to make full disclosure to the other spouse of all material facts and information regarding the existence, characterization, and valuation of all assets in which the community has or may have an interest and debts for which the community is or may be liable, and to provide equal access to all information, records, and books that pertain to the value and character of those assets and debts, upon request.

SEC. 4. Section 5125.1 of the Civil Code is amended to read:

5125.1. (a) A spouse has a claim against the other spouse for a breach of the fiduciary duty imposed by Section 5125 or 5127 that results in impairment to the claimant spouse's present undivided one-half interest in the community interest, including, but not limited to, a single transaction or a pattern or series of transactions, which transaction or transactions have caused or will cause a detrimental impact to the claimant spouse's undivided one-half interest in the community estate.

(b) A court may order an accounting of the property and obligations of the parties to a marriage and may determine the rights of ownership in, the beneficial enjoyment of, or access to, community property, and the classification of all property of the parties to a marriage.

(c) A court may order that the name of a spouse shall be added to community property held in the name of the other spouse alone or that the title of community property held in some other title form shall be reformed to reflect its community character, except with respect to any of the following:

(1) A partnership interest held by the other spouse as a general partner.

(2) An interest in a professional corporation or professional association.

(3) An asset of an unincorporated business if the other spouse is the only spouse involved in operating and managing the business.

(4) Any other property, if the revision would adversely affect the rights of a third person.

(d) (1) Except as provided in paragraph (2), any action under subdivision (a) shall be commenced within three years of the date a petitioning spouse had actual knowledge that the transaction or event for which the remedy is being sought occurred.

(2) An action may be commenced under this section upon the death of a spouse or in conjunction with an action for legal separation, dissolution of marriage, or nullity without regard to the time limitations set forth in paragraph (1).

(3) The defense of laches may be raised in any action brought under this section.

(4) Except as to actions authorized by paragraph (2), remedies under subdivision (a) apply only to transactions or events occurring on or after July 1, 1987.

(e) In any transaction affecting community property in which the consent of both spouses is required, the court may, upon the motion of a spouse, dispense with the requirement of the other spouse's consent if both of the following requirements are met:

(1) The proposed transaction is in the best interest of the community.

(2) Consent has been arbitrarily refused or cannot be obtained due to the physical incapacity, mental incapacity, or prolonged absence of the nonconsenting spouse.

(f) Any action may be brought under this section without filing an action for dissolution of marriage, legal separation, or nullity, or may be brought in conjunction with the action or upon the death of a spouse.

(g) Remedies for breach of the fiduciary duty by one spouse as set out in Section 5103 shall include, but not be limited to, an award to the other spouse of 50 percent, or an amount equal to 50 percent, of any asset undisclosed or transferred in breach of the fiduciary duty plus attorney's fees and court costs. However, in no event shall interest be assessed on the managing spouse.

(h) Remedies for the breach of the fiduciary duty by one spouse when the breach falls within the ambit of Section 3294 shall include, but not be limited to, an award to the other spouse of 100 percent, or an amount equal to 100 percent, of any asset undisclosed or transferred in breach of the fiduciary duty.

CHAPTER 1027

An act to amend Sections 36003, 36107, 36201, 36301, 36302, 36400, 36401, 36402, and 36500 of, to repeal and add Division 25 (commencing with Section 35000) of, and to repeal Chapter 4 (commencing with Section 35040) of Division 25 of, the Public Resources Code, relating to ocean resources.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Division 25 (commencing with Section 35000) of the Public Resources Code is repealed.

SEC. 2. Division 25 (commencing with Section 35000) is added to the Public Resources Code, to read:

DIVISION 25. COASTAL RESOURCES AND ENERGY ASSISTANCE

CHAPTER 1. GENERAL PROVISIONS

35000. This division shall be known and may be cited as the Coastal Resources and Energy Assistance Act.

35001. The Legislature finds and declares that it is essential that the state, in cooperation with local governments, invest a portion of federal revenues derived from the extraction of publicly owned, nonrenewable offshore energy resources for the sound protection and management of the state's renewable ocean and coastal resources.

35002. The Legislature further finds and declares that the federal government's accelerated and expanded federal offshore leasing program, in conjunction with the State Lands Commission's submerged lands leasing program, have placed a greater strain on state and local government efforts to plan for and manage the ocean and coastal impacts caused by offshore oil and gas development.

35003. The Legislature further finds and declares, therefor, that a portion of federal revenues derived from the extraction of offshore energy resources should be expended by the state to further the following goals:

(a) Provision of financial assistance to coastal counties and cities affected by federal and state offshore energy development.

(b) Assistance to local governments to exercise their responsibility for improving the management of the state's coastal resources.

CHAPTER 2. DEFINITIONS

35020. "Coastal city" means a city or port district which lies, in whole or in part, within the coastal zone.

35021. "Coastal county" means a county or city and county which lies, in whole or in part, within the coastal zone.

35022. "Coastal zone" means the coastal zone as defined in Section 30103.

35023. "Local coastal program" means a local coastal program as defined in Section 30108.6.

35024. "Secretary" means the Secretary of the Resources Agency.

CHAPTER 3. COASTAL COUNTY AND CITY OFFSHORE ENERGY ASSISTANCE

35030. (a) The secretary, after consulting with the California Coastal Commission and the State Lands Commission concerning offshore energy activities, shall award grants to coastal counties and cities to be used for the purposes of planning, assessment, mitigation, permitting, monitoring and enforcement, public services and

facilities, and for other activities related to offshore energy development, consistent with the requirements of the state's coastal management program.

(b) Prior to receiving grants under this chapter, each coastal county and city shall submit a report to the secretary describing how the funds are to be expended. Before submitting the report, each coastal county and city shall provide opportunities for the public to review and comment on the report and shall hold at least one public hearing on the report.

35031. Any funds appropriated in accordance with subdivision (a) of Section 35050 and not expended as described in Section 35030, may be awarded by the secretary for technical and financial assistance to coastal counties and cities with approved local coastal programs to help them exercise effectively their responsibility for improving the management of the state's coastal resources. Technical and financial assistance shall be made available to coastal counties and cities to do any of the following:

(a) Protect wetlands, flood plains, estuaries, beaches, dunes, and fish and wildlife and their habitat within coastal areas.

(b) Minimize the loss of life and property in coastal flood-prone, storm surge, geologic hazard, and erosion-prone areas.

(c) Provide public access to the coast for recreational purposes, to acquire coastal view sheds, and to preserve and restore historic, cultural, and aesthetic coastal sites.

(d) Facilitate the process for siting major facilities along the coast related to fisheries, recreation, and ports and other coastal dependent commercial uses, giving full consideration to environmental concerns as well as the need for economic development.

(e) Promote other coastal management improvements determined by the secretary to be consistent with the state's coastal management program.

35032. The secretary, in cooperation with the California Coastal Commission, shall develop and implement a competitive application process to award coastal counties and cities financial and technical assistance pursuant to this chapter on or before July 1, 1992.

35033. Any financial assistance provided to local governments under this chapter may not exceed 50 percent of the cost of carrying out the project.

35034. On an annual basis, the secretary shall review and assess county and city expenditures under this program. Not more than one hundred thousand dollars ($100,000) of the funds appropriated pursuant to subdivision (a) of Section 35050 may be used by the secretary to defray administrative costs.

CHAPTER 4. LOCAL MARINE FISHERIES IMPACT PROGRAM

35040. The Legislature hereby finds that California's commercial fishing industry is a vital component of the state's economy, and that

this industry has been impacted by offshore oil and gas activities and state and federal marine safety and pollution abatement mandates. The Legislature further finds that the financial impacts of these activities and programs have seriously jeopardized the viability of the California fishing industry. The Legislature hereby establishes the Local Marine Fisheries Impact Program to address these impacts.

The Legislature further finds that this program shall not be considered to be mitigation for these impacts, and that by the enactment of this chapter, the state is not assuming responsibility for mitigating impacts to the fishing industry arising from offshore oil and gas activities. The Legislature further finds and declares that this program is a proper use of funds and that the program serves a necessary public purpose.

35041. (a) The secretary may grant funds appropriated for fishing vessel safety, survey, and pollution abatement equipment to any commercial fisherman, licensed under Section 7850 of the Fish and Game Code, who operates or owns a fishing vessel operated in areas off the coast of this state.

(b) The secretary may also grant funds to individuals and state agencies, contract for services or research, or enter into interagency agreements to address impacts on California's commercial fishing industry from offshore oil and gas and other competing activities and legislative mandates. Funds expended for this purpose may implement programs to address area, gear, and technology development; vessel and gear staging and repair space; fishing vessel safety, survey, and survival equipment; fuel conservation, and resource assessment; fisheries marketing assistance; and the promotion of a fisheries development corporation.

(c) Procedures for the administration of grants under this chapter shall be adopted by the secretary only after providing adequate opportunity for public review and comment. However, those procedures are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

35043. This chapter shall remain in effect only until January 1, 1996, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1996, deletes or extends that date.

SEC. 3. Section 36003 of the Public Resources Code is amended to read:

36003. (a) No authority is created under this division, nor shall any of its purposes or provisions be used by any public or private agency or person, to delay or deny any existing or future project or activity during the preparation and delivery of the report and plan required by this division.

(b) No authority is created under this division to supersede current state agency statutory authority.

(c) The task force established pursuant to Section 36300 shall cease to exist upon delivery of its report and plan to the Governor and the Legislature.

SEC. 4. Section 36107 of the Public Resources Code is amended to read:

36107. "Report and plan" means the report and plan prepared by the task force.

SEC. 5. Section 36201 of the Public Resources Code is amended to read:

36201. The California Ocean Resources Management Program consists of all of the following:

(a) The Ocean Resources Task Force.

(b) The California Ocean Resources Advisory Committee.

(c) The report and plan prepared and adopted pursuant to Chapter 6 (commencing with Section 36500).

SEC. 6. Section 36301 of the Public Resources Code is amended to read:

36301. The chairperson of the task force shall be the Secretary of the Resources Agency, who shall provide all staff support required by the task force. The task force shall meet at the call of the chairperson.

SEC. 7. Section 36302 of the Public Resources Code is amended to read:

36302. The chairperson of the task force, with advice from the task force, shall appoint the California Ocean Resources Advisory Committee, which, at a minimum, shall consist of the following: representatives of coastal local governments, relevant federal agencies, environmental and interest groups, the Legislature, and relevant industries such as oil and gas, hard minerals, biotechnology, commercial and sportfishing, seafood processing, aquaculture, transportation, tourism, and ports and harbors.

The advisory committee shall review the draft of the report and plan of the task force and shall advise the task force in its preparation.

SEC. 8. Section 36400 of the Public Resources Code is amended to read:

36400. The task force shall prepare a report and plan as required by Section 36500.

SEC. 9. Section 36401 of the Public Resources Code is amended to read:

36401. The chairperson of the task force shall submit the report and plan to the Governor and the Legislature as specified in Section 36500.

SEC. 10. Section 36402 of the Public Resources Code is amended to read:

36402. The task force shall provide opportunity for public review and comment following release of a draft scoping document and also following release of a draft report and plan. Public comments shall be submitted with the report and plan to the Governor and the Legislature.

SEC. 11. Section 36500 of the Public Resources Code is amended to read:

36500. The task force shall prepare a report regarding existing

ocean resources management activities and impacts, including a plan to increase coordination and consolidation of these activities. The report and plan shall be submitted to the Governor and Legislature by January 1, 1994. The report and plan shall include, to the degree information is available, at least all of the following:

(a) Inventory of state and federal laws, rules and regulations, authorities, and programs which pertain to the resources and uses of state and federal waters.

(b) Analysis of state laws, rules and regulations, authorities, and programs which pertain to the resources and uses of state and federal waters, and which conflict with one another or with federal laws, rules and regulations, authorities, and programs.

(c) Identification of existing and potential resources and uses of, and issues pertaining to, the ocean, and of potential new industries and jobs related to development of ocean resources and uses.

(d) Identification of potential impacts to federal and state waters and to coastal areas above the mean high tide line from activities in federal and state waters, and an evaluation of state agency ability to manage those impacts.

(e) Identification of all existing state and federal programs relating to federal and state waters pollution research and monitoring, including general research on the marine ecosystem.

(f) Evaluation of the feasibility of developing computerized mapping of existing conditions, uses, and resources in federal and state waters.

(g) A long-term plan for conservation and protection of ocean resources and uses.

(h) A long-term plan for the management of California's interests in federal waters, including recommendations to develop or improve state agency programs relating to the management of EEZ resources and uses, and the identification of issues which may affect local government local coastal programs.

(i) A plan for the continuation and improvement of the role of the state as a leader in education, research, and training in marine sciences and the management of marine resources, including recommendations for state-supported marine research in state and federal waters.

(j) A plan for cooperation by the state with other states, the federal government, other nations, and national and international organizations in marine science activities when that cooperation is in the interest of the State of California.

(k) A plan for options for ensuring appropriate public infrastructure investment to support present and future ocean industries.

(*l*) Prioritization of resource and use conflicts in federal and state waters.

(m) Identification of alternative dispute management and resolution processes for resource conflicts in and between federal and state jurisdictions, and a proposed framework for managing

future conflicts.

(n) A plan for joint federal and state management activities and revenue sharing in state and federal waters.

(o) Recommendations for proposed implementing legislation, if any.

SEC. 12. It is the intent of the Legislature that all nonstatutory marine and coastal resource programs which are currently administered by the Secretary for Environmental Protection be transferred to the Resources Agency. The duties and responsibilities to be transferred include all executive branch delegations regarding review and coordination of federal outer continental shelf (OCS) oil and gas lease sales and development projects, policy coordination of resources and uses in the exclusive economic zone (EEZ), state representation on the Coastal States Organization and the Department of the Interior OCS Policy Committee, and any other involvements in marine and coastal resource matters. It is the intent of the Legislature that marine-related programs within the State Water Resources Control Board, such as the Ocean Plan, remain the responsibility of that board. It is further the intent of the Legislature that adequate positions and funding be made available to the Resources Agency in order to administer these marine and coastal resource programs.

CHAPTER 1028

An act to amend Section 33112 of, and to add Section 60510.5 to, the Education Code, relating to schools.

[Approved by Governor October 14, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 33112 of the Education Code is amended to read:

33112. The Superintendent of Public Instruction shall:

(a) Superintend the schools of this state.

(b) Prepare, have printed, and furnish to teachers and to all officers charged with the administration of the laws relating to the public schools the blank forms and books necessary to the discharge of their duties, including blank teachers' certificates to be used by county and city and county boards of education.

(c) Authenticate with his or her official seal all drafts or orders drawn by him or her, and all papers and writings issued from his or her office.

(d) Have bound, at the state bindery, all valuable school reports, journals, and documents in his or her office, or received by him or her.

(e) Deliver over, at the expiration of his or her term of office, on demand, to his or her successor, all property, books, documents, maps, records, reports, and other papers belonging to his or her office, or which may have been received by him or her for the use of his or her office.

(f) Designate and appoint, or terminate the designation and appointment of, any officer or employee of the department to have the powers and liabilities of a deputy, including designation pursuant to Section 7.9 of the Government Code, which appointment and termination of appointment shall be effective when filed in writing in the office of the Secretary of State.

(g) Annually inform the governing boards of school districts, in a manner prescribed by the superintendent, of the provisions of Section 60510.5.

SEC. 2. Section 60510.5 is added to the Education Code, to read:

60510.5. (a) Prior to the disposition by a school district of any instructional materials pursuant to Section 60510, the school district governing board is encouraged to do both of the following:

(1) No later than 60 days prior to that disposition, notify the public of its intention to dispose of those materials through a public service announcement on a television station in the county in which the district is located, a public notice in a newspaper of general circulation published in that county, or any other means that the governing board determines to reach most effectively the entities described in subdivisions (a) to (e), inclusive, of Section 60510.

(2) Permit representatives of the entities described in subdivisions (a) to (e), inclusive, of Section 60510 and members of the public to address the governing board regarding that disposition.

(b) This section does not apply to any school district that, as of January 1, 1992, had in operation a procedure for the disposition of instructional materials pursuant to Section 60510.

CHAPTER 1029

An act to amend Sections 20104.2 and 20104.4 of the Public Contract Code, relating to public contracts.

[Approved by Governor October 14, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 20104.2 of the Public Contract Code is amended to read:

20104.2. For any claim subject to this article, the following requirements apply:

(a) The claim shall be in writing and include the documents necessary to substantiate the claim. Claims must be filed on or before

the date of final payment. Nothing in this subdivision is intended to extend the time limit or supersede notice requirements otherwise provided by contract for the filing of claims.

(b) (1) For claims of less than fifty thousand dollars ($50,000), the local agency shall respond in writing to any written claim within 45 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the local agency may have against the claimant.

(2) If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the local agency and the claimant.

(3) The local agency's written response to the claim, as further documented, shall be submitted to the claimant within 15 days after receipt of the further documentation or within a period of time no greater than that taken by the claimant in producing the additional information, whichever is greater.

(c) (1) For claims of over fifty thousand dollars ($50,000) and less than or equal to three hundred seventy-five thousand dollars ($375,000), the local agency shall respond in writing to all written claims within 60 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the local agency may have against the claimant.

(2) If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the local agency and the claimant.

(3) The local agency's written response to the claim, as further documented, shall be submitted to the claimant within 30 days after receipt of the further documentation, or within a period of time no greater than that taken by the claimant in producing the additional information or requested documentation, whichever is greater.

(d) If the claimant disputes the local agency's written response, or the local agency fails to respond within the time prescribed, the claimant may so notify the local agency, in writing, either within 15 days of receipt of the local agency's response or within 15 days of the local agency's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon a demand, the local agency shall schedule a meet and confer conference within 30 days for settlement of the dispute.

(e) Following the meet and confer conference, if the claim or any portion remains in dispute, the claimant may file a claim as provided in Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code. For purposes of those provisions, the running of the period of time within which a claim must be filed shall be tolled from the time the claimant submits his or her written claim pursuant to subdivision (a) until the time that claim is denied as a

result of the meet and confer process, including any period of time utilized by the meet and confer process.

(f) This article does not apply to tort claims and nothing in this article is intended nor shall be construed to change the time periods for filing tort claims or actions specified by Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code.

SEC. 2. Section 20104.4 of the Public Contract Code is amended to read:

20104.4. The following procedures are established for all civil actions filed to resolve claims subject to this article:

(a) Within 60 days, but no earlier than 30 days, following the filing or responsive pleadings, the court shall submit the matter to nonbinding mediation unless waived by mutual stipulation of both parties. The mediation process shall provide for the selection within 15 days by both parties of a disinterested third person as mediator, shall be commenced within 30 days of the submittal, and shall be concluded within 15 days from the commencement of the mediation unless a time requirement is extended upon a good cause showing to the court or by stipulation of both parties. If the parties fail to select a mediator within the 15-day period, any party may petition the court to appoint the mediator.

(b) (1) If the matter remains in dispute, the case shall be submitted to judicial arbitration pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, notwithstanding Section 1141.11 of that code. The Civil Discovery Act of 1986 (Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure) shall apply to any proceeding brought under this subdivision consistent with the rules pertaining to judicial arbitration.

(2) Notwithstanding any other provision of law, upon stipulation of the parties, arbitrators appointed for purposes of this article shall be experienced in construction law, and, upon stipulation of the parties, mediators and arbitrators shall be paid necessary and reasonable hourly rates of pay not to exceed their customary rate, and such fees and expenses shall be paid equally by the parties, except in the case of arbitration where the arbitrator, for good cause, determines a different division. In no event shall these fees or expenses be paid by state or county funds.

(3) In addition to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, any party who after receiving an arbitration award requests a trial de novo but does not obtain a more favorable judgment shall, in addition to payment of costs and fees under that chapter, pay the attorney's fees of the other party arising out of trial de novo.

(c) The court may, upon request by any party, order any witnesses to participate in the mediation or arbitration process.

CHAPTER 1030

An act to amend Section 30603 of the Public Resources Code, relating to coastal development.

[Approved by Governor October 14, 1991 Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 30603 of the Public Resources Code is amended to read:

30603. (a) After certification of its local coastal program, an action taken by a local government on a coastal development permit application may be appealed to the commission for only the following types of developments:

(1) Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance.

(2) Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff.

(3) Developments approved by the local government not included within paragraph (1) or (2) that are located in a sensitive coastal resource area.

(4) Any development approved by a coastal county that is not designated as the principal permitted use under the zoning ordinance or zoning district map approved pursuant to Chapter 6 (commencing with Section 30500).

(5) Any development which constitutes a major public works project or a major energy facility.

(b) (1) The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.

(2) The grounds for an appeal of a denial of a permit pursuant to paragraph (5) of subdivision (a) shall be limited to an allegation that the development conforms to the standards set forth in the certified local coastal program and the public access policies set forth in this division.

(c) Any action described in subdivision (a) shall become final after the 10th working day, unless an appeal is filed within that time.

CHAPTER 1031

An act to amend Section 66645 of the Government Code, and to amend Section 30413 of the Public Resources Code, relating to energy.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 66645 of the Government Code is amended to read:

66645. (a) In addition to the provisions of Sections 25302, 25500, 25507, 25508, 25514, 25516.1, 25519, 25523, and 25526 of the Public Resources Code, the provisions of this section shall apply to the commission and the State Energy Resources Conservation and Development Commission with respect to matters within the statutory responsibility of the latter.

(b) After one or more public hearings, and prior to January 1, 1979, the commission shall designate those specific locations within the Suisun Marsh, as defined in Section 29101 of the Public Resources Code, or the area of jurisdiction of the commission, where the location of a facility, as defined in Section 25110 of the Public Resources Code, would be inconsistent with this title or Division 19 (commencing with Section 29000) of the Public Resources Code. The following locations, however, shall not be so designated: (1) any property of a utility that is used for such a facility or will be used for the reasonable expansion thereof; (2) any site for which a notice of intention to file an application for certification has been filed pursuant to Section 25502 of the Public Resources Code prior to January 1, 1978, and is subsequently approved pursuant to Section 22516 of the Public Resources Code; and (3) the area east of Collinsville Road that is designated for water-related industrial use on the Suisun Marsh Protection Plan Map. Each designation made pursuant to this section shall include a description of the boundaries of those locations, the provisions of this title or Division 19 (commencing with Section 29000) of the Public Resources Code with which they would be inconsistent, and detailed findings concerning the significant adverse impacts that would result from development of a facility in the designated area. The commission shall consider the conclusions, if any, reached by the State Energy Resources Conservation and Development Commission in its most recently promulgated comprehensive report issued pursuant to Section 25309 of the Public Resources Code. The commission also shall request the assistance of the State Energy Resources Conservation and Development Commission in carrying out the requirements of this section. The commission shall transmit a copy of its report prepared pursuant to this subdivision to the State Energy Resources

Conservation and Development Commission.

(c) The commission shall revise and update the designations specified in subdivision (b) not less than once every five years. The provisions of subdivision (b) shall not apply to any sites and related facilities specified in any notice of intention to file an application for certification filed pursuant to Section 25502 of the Public Resources Code prior to designation of additional locations made by the commission pursuant to this subdivision.

(d) Whenever the State Energy Resources Conservation and Development Commission exercises its siting authority and undertakes proceedings pursuant to the provisions of Chapter 6 (commencing with Section 25500) of Division 15 of the Public Resources Code with respect to any thermal powerplant or transmission line to be located, in whole or in part, within the Suisun Marsh or the area of jurisdiction of the commission, the commission shall participate in those proceedings and shall receive from the State Energy Resources Conservation and Development Commission any notice of intention to file an application for certification of a site and related facilities within the Suisun Marsh or the area of jurisdiction of the commission. The commission shall analyze each notice of intention and, prior to commencement of the hearings conducted pursuant to Section 25513 of the Public Resources Code, shall forward to the State Energy Resources Conservation and Development Commission a written report on the suitability of the proposed site and related facilities specified in that notice. The commission's report shall contain a consideration of, and findings regarding, the following:

(1) If it is to be located within the Suisun Marsh, the consistency of the proposed site and related facilities, with the provisions of this title and Division 19 (commencing with Section 29000) of the Public Resources Code, the policies of the Suisun Marsh Protection Plan (as defined in Section 29113 of the Public Resources Code) and the certified local protection program (as defined in Section 29111 of the Public Resources Code) if any.

(2) If it is to be located within the area of jurisdiction of the commission, the consistency of the proposed site and related facilities with the provisions of this title and the San Francisco Bay Plan.

(3) The degree to which the proposed site and related facilities could reasonably be modified so as to be consistent with this title, Division 19 (commencing with Section 29000) of the Public Resources Code, the Suisun Marsh Protection Plan, or the San Francisco Bay Plan.

(4) Such other matters as the commission deems appropriate and necessary to carry out Division 19 (commencing with Section 29000) of the Public Resources Code.

SEC. 2. Section 30413 of the Public Resources Code is amended to read:

30413. (a) In addition to the provisions set forth in subdivision (f) of Section 30241, and in Sections 25302, 25500, 25507, 25508, 25510,

25514, 25516.1, 25523, and 25526, the provisions of this section shall apply to the commission and the State Energy Resources Conservation and Development Commission with respect to matters within the statutory responsibility of the latter.

(b) The commission shall, prior to January 1, 1978, and after one or more public hearings, designate those specific locations within the coastal zone where the location of a facility as defined in Section 25110 would prevent the achievement of the objectives of this division; provided, however, that specific locations that are presently used for such facilities and reasonable expansion thereof shall not be so designated. Each such designation shall include a description of the boundaries of those locations, the objectives of this division which would be so affected, and detailed findings concerning the significant adverse impacts that would result from development of a facility in the designated area. The commission shall consider the conclusions, if any, reached by the State Energy Resources Conservation and Development Commission in its most recently promulgated comprehensive report issued pursuant to Section 25309. The commission shall transmit a copy of its report prepared pursuant to this subdivision to the State Energy Resources Conservation and Development Commission.

(c) The commission, after it completes its initial designations in 1978, shall, prior to January 1, 1980, and once every two years thereafter until January 1, 1990, revise and update the designations specified in subdivision (b). After January 1, 1990, the commission shall revise and update those designations not less than once every five years. Those revisions shall be effective on January 1, 1980, or on January 1 of the year following adoption of the revisions. The provisions of subdivision (b) shall not apply to any sites and related facilities specified in any notice of intention to file an application for certification filed with the State Energy Resources Conservation and Development Commission pursuant to Section 25502 prior to designation of additional locations made by the commission pursuant to this subdivision.

(d) Whenever the State Energy Resources Conservation and Development Commission exercises its siting authority and undertakes proceedings pursuant to the provisions of Chapter 6 (commencing with Section 25500) of Division 15 with respect to any thermal powerplant or transmission line to be located, in whole or in part, within the coastal zone, the commission shall participate in those proceedings and shall receive from the State Energy Resources Conservation and Development Commission any notice of intention to file an application for certification of a site and related facilities within the coastal zone. The commission shall analyze each notice of intention and shall, prior to completion of the preliminary report required by Section 25510, forward to the State Energy Resources Conservation and Development Commission a written report on the suitability of the proposed site and related facilities specified in that notice . The commission's report shall contain a consideration of, and

findings regarding, all of the following:

(1) The compatibility of the proposed site and related facilities with the goal of protecting coastal resources.

(2) The degree to which the proposed site and related facilities would conflict with other existing or planned coastal-dependent land uses at or near the site.

(3) The potential adverse effects that the proposed site and related facilities would have on aesthetic values.

(4) The potential adverse environmental effects on fish and wildlife and their habitats.

(5) The conformance of the proposed site and related facilities with certified local coastal programs in those jurisdictions which would be affected by any such development.

(6) The degree to which the proposed site and related facilities could reasonably be modified so as to mitigate potential adverse effects on coastal resources, minimize conflict with existing or planned coastal-dependent uses at or near the site, and promote the policies of this division.

(7) Such other matters as the commission deems appropriate and necessary to carry out this division.

(e) The commission may, at its discretion, participate fully in other proceedings conducted by the State Energy Resources Conservation and Development Commission pursuant to its powerplant siting authority. In the event the commission participates in any public hearings held by the State Energy Resources Conservation and Development Commission, it shall be afforded full opportunity to present evidence and examine and cross-examine witnesses.

(f) The State Energy Resources Conservation and Development Commission shall forward a copy of all reports it distributes pursuant to Sections 25302 and 25306 to the commission and the commission shall, with respect to any report that relates to the coastal zone or coastal zone resources, comment on those reports, and shall in its comments include a discussion of the desirability of particular areas within the coastal zone as designated in such reports for potential powerplant development. The commission may propose alternate areas for powerplant development within the coastal zone and shall provide detailed findings to support the suggested alternatives.

CHAPTER 1032

An act to amend Sections 4848 and 4883 of, and to add Section 4856 to, the Business and Professions Code, relating to veterinary medicine.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 4848 of the Business and Professions Code is amended to read:

4848. (a) (1) The board shall, by means of examination, ascertain the professional qualifications of all applicants for licenses to practice veterinary medicine in this state and shall issue a license to every person whom it finds to be qualified. No license shall be issued to anyone who has not demonstrated his or her competency by examination.

(2) The examination shall consist of both of the following:

(A) A national examination consisting of both of the following:

(i) The basic examination.

(ii) The clinical competency test.

(B) A California state board examination.

The examinations may be given at the same time or at different times as determined by the board. For examination purposes, the board may make contractual arrangements on a sole source basis with organizations furnishing examination material as it may deem desirable and shall be exempt from Section 10115 of the Public Contract Code.

(3) The national examination may be waived by the board in any case in which it determines that the applicant has taken and passed a national examination for licensure in another state substantially equivalent in scope and subject matter to the national examination last given in California before the determination is made, and has achieved a score on the out-of-state examination at least equal to the score required to pass the national examination administered in California.

(4) Nothing in this chapter shall preclude the board from permitting a person who has completed a portion of his or her educational program, as determined by the board, in a veterinary college, recognized by the board under Section 4846, to take any examination or any part thereof prior to satisfying the requirements for application for a license established by Section 4846.

(b) The board may waive the examination requirements of subdivision (a), and issue a license to an applicant to practice veterinary medicine, surgery, and dentistry, if the applicant meets all of the following requirements and would not be denied issuance of a license by any other provision of this code:

(1) The applicant is licensed in one or more other states in which the board has determined that he or she has taken and passed both parts of the national examination, and a written practical or written practice examination, equivalent in scope and subject matter to the California state board examination.

(2) The applicant has been lawfully and continuously engaged in the practice of veterinary medicine, surgery, and dentistry for four years or more in one or more states immediately preceding filing his or her application for licensure in this state.

(3) The applicant has graduated from a veterinary college recognized by the board under Section 4846. In the case of an applicant who is not a graduate of a veterinary college recognized by the board, he or she shall possess a certificate issued by the Educational Commission for Foreign Veterinary Graduates of the American Veterinary Medical Association which was issued as a result of, among other things, passing the Clinical Proficiency Examination administered by the Educational Commission for Foreign Veterinary Graduates.

(4) The board determines that no disciplinary action has been taken against the applicant by any public agency concerned with the practice of veterinary medicine and that the applicant has not been the subject of adverse judgments resulting from the practice of veterinary medicine which the board determines constitutes evidence of a pattern of incompetence or negligence.

(5) The applicant passes a practicing veterinarian examination administered by the board or a committee or organization authorized by the board. It may be oral or practical or clinical in nature and full consideration shall be given to the duration and character of the applicant's practice.

SEC. 2. Section 4856 is added to the Business and Professions Code, to read:

4856. (a) All records required by law to be kept by a veterinarian subject to this chapter, including, but not limited to, records pertaining to diagnosis and treatment of animals and records pertaining to drugs or devices for use on animals, shall be open to inspection by the board, or its authorized representatives, during an inspection as part of a regular inspection program by the board, or during an investigation initiated in response to a complaint that a licensee has violated any law or regulation that constitutes grounds for disciplinary action by the board. A copy of all those records shall be provided to the board immediately upon request.

(b) Equipment and drugs on the premises, or any other place, where veterinary medicine, veterinary dentistry, or veterinary surgery is being practiced, or otherwise in the possession of a veterinarian for purposes of that practice, shall be open to inspection by the board, or its authorized representatives, during an inspection as part of a regular inspection program by the board, or during an investigation initiated in response to a complaint that a licensee has violated any law or regulation that constitutes grounds for

disciplinary action by the board.

SEC. 3. Section 4883 of the Business and Professions Code is amended to read:

4883. The board may deny, revoke, or suspend a license or assess a fine as provided in Section 4875 for any of the following:

(a) Conviction of a crime substantially related to the qualifications, functions, or duties of veterinary medicine, surgery, or dentistry, in which case the record of such conviction shall be conclusive evidence.

(b) For having professional connection with or lending one's name to any illegal practitioner of veterinary medicine and the various branches thereof.

(c) Violation or attempting to violate, directly or indirectly, any of the provisions of this chapter.

(d) Fraud or dishonesty in applying, treating or reporting on tuberculin or other biological tests.

(e) Employment of anyone but a veterinarian licensed in the State of California to demonstrate the use of biologics in the treatment of animals.

(f) False or misleading advertising having for its purpose or intent deception or fraud.

(g) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Conviction of a charge of violating any federal statutes or rules or any statute or rule of this state, regulating dangerous drugs or controlled substances. The record of the conviction is conclusive evidence thereof. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The board may order the license suspended or revoked, or assess a fine, or decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

(2) The use of or prescribing for or administering to himself or herself, any controlled substance; or the use of any of the dangerous drugs specified in Section 4211, or of alcoholic beverages to the extent, or in any manner as to be dangerous or injurious to a person licensed under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person so licensed to conduct with safety the practice authorized by the license; or the conviction of more than one misdemeanor or any felony involving the use, consumption or self-administration of any of the substances referred to in this section or any combination thereof and the record of the conviction is conclusive evidence; a plea or verdict of guilty or a conviction following a plea of nolo

contendere is deemed to be a conviction within the meaning of this section; the board may order the license suspended or revoked or assess a fine, or may decline to issue a license, when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

(3) A violation of any federal statute, or rule or regulation or any of the statutes or rules or regulations of this state regulating dangerous drugs or controlled substances.

(h) Failure to keep one's premises and all equipment therein in a clean and sanitary condition.

(i) Fraud, deception, negligence, or incompetence in the practice of veterinary medicine.

(j) Aiding or abetting in any acts which are in violation of any of the provisions of this chapter.

(k) The employment of fraud, misrepresentation, or deception in obtaining such license.

(*l*) The revocation by a sister state or territory of a license or certificate by virtue of which one is licensed to practice veterinary medicine in that state or territory.

(m) Cruelty to animals or conviction on a charge of cruelty to animals, or both.

(n) Disciplinary action taken by any public agency for any act substantially related to the practice of veterinary medicine.

(o) Violation, or the assisting or abetting violation, of any regulations adopted by the board pursuant to this chapter.

CHAPTER 1033

An act to amend Sections 25281.5, 25299.52, 25299.54, and 25299.58 of the Health and Safety Code, relating to underground storage tanks, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 14, 1991 Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 25281.5 of the Health and Safety Code is amended to read:

25281.5. (a) Notwithstanding subdivision (k) of Section 25281, for purposes of this chapter "pipe" means all parts of any pipeline or system of pipelines, used in connection with the storage of hazardous substances, including, but not limited to, valves and other

appurtenances connected to the pipe, pumping units, fabricated assemblies associated with pumping units, and metering and delivery stations and fabricated assemblies therein, but does not include any of the following:

(1) An interstate pipeline subject to 49 Code of Federal Regulations, Part 195.

(2) An intrastate pipeline subject to Chapter 5.5 (commencing with Section 51010) of Part 1 of Division 1 of Title 5 of the Government Code.

(3) Unburied delivery hoses, vapor recovery hoses, and nozzles which are subject to unobstructed visual inspection for leakage.

(4) Vent lines, vapor recovery lines, and fill pipes which are designed to prevent, and do not hold, standing fluid in the pipes or lines.

(b) In addition to the exclusions specified in subdivision (x) of Section 25281, "underground storage tank" does not include vent lines, vapor recovery lines, and fill pipes which are designed to prevent, and do not hold, standing fluid in the pipes or lines.

SEC. 2. Section 25299.52 of the Health and Safety Code is amended to read:

25299.52. (a) The board shall adopt a priority ranking list at least twice annually for awarding claims pursuant to Section 25299.57 or 25299.58. Any owner or operator eligible for payment of a claim pursuant to Section 25299.54 shall file an application with the board within a reasonable period, to be determined by the board, prior to adoption of the priority ranking list.

(b) In awarding claims pursuant to Section 25299.57 or 25299.58, the board shall pay claims in accordance with the following priorities:

(1) Owners of tanks who are eligible to file a claim pursuant to subdivision (e) of Section 25299.54.

(2) Owners and operators of tanks who meet the requirements of subdivision (a) of Section 15399.12 of the Government Code.

(3) Owners or operators of tanks, if the owner or operator owns and operates a business which employs fewer than 500 full-time and part-time employees, is independently owned and operated, is not dominant in its field of operation, the principal office is located in California, and all of the officers of the business are domiciled in California.

(4) All other tank owners and operators.

(c) The fund may sue and be sued in its own name.

SEC. 3. Section 25299.54 of the Health and Safety Code is amended to read:

25299.54. (a) Except as provided in subdivisions (b), (c), (d), and (e) an owner or operator, required to perform corrective action pursuant to Section 25299.37, or an owner or operator who, as of January 1, 1988, is required to perform corrective action, who has initiated this action in accordance with Division 7 (commencing with Section 13000) of the Water Code, who is undertaking corrective action in compliance with waste discharge requirements or other

orders issued pursuant to Division 7 (commencing with Section 13000) of the Water Code, or Chapter 6.7 (commencing with Section 25280), may apply to the board for satisfaction of a claim filed pursuant to this article.

(b) A person who has failed to comply with Article 3 (commencing with Section 25299.30) is ineligible to file a claim pursuant to this section.

(c) Any owner or operator of an underground storage tank containing petroleum is ineligible to file a claim pursuant to this section if the person meets both of the following conditions:

(1) The person knew, before January 1, 1988, of the unauthorized release of petroleum which is the subject of the claim.

(2) The person did not initiate, on or before June 30, 1988, any corrective action in accordance with Division 7 (commencing with Section 13000) of the Water Code concerning the release, or the person did not, on or before June 30, 1988, initiate corrective action in accordance with Chapter 6.7 (commencing with Section 25280) or the person did not initiate action on or before June 30, 1988, to come into compliance with waste discharge requirements or other orders issued pursuant to Division 7 (commencing with Section 13000) of the Water Code concerning the release.

(d) An owner or operator who violates Article 4 (commencing with Section 25299.36) is liable for any corrective action costs which result from the owner's or operator's violation of Article 4 (commencing with Section 25299.36) and is ineligible to file a claim pursuant to this section.

(e) Notwithstanding this chapter, a person who owns a tank located underground that is used to store petroleum may apply to the board for satisfaction of a claim, and the board may pay the claim pursuant to Section 25299.57 without making the findings specified in paragraph (3) of subdivision (d) of Section 25299.57 if all of the following apply:

(1) The tank meets one of the following requirements:

(A) The tank is located on property zoned only for residential use.

(B) The tank owner demonstrates that the tank is located on property which, on and after January 1, 1985, is not used for agricultural purposes, the tank is of a type specified in paragraph (2) of subdivision (x) of Section 25281, and the petroleum in the tank is used solely for the purposes specified in paragraph (2) of subdivision (x) of Section 25281 on and after January 1, 1985.

(2) The tank is not a tank described in paragraph (1) of subdivision (x) of Section 25281 and the tank is not used on or after January 1, 1985, for the purposes specified in that paragraph.

(3) The claimant has complied with Section 25299.31 and the permit requirements of Chapter 6.7 (commencing with Section 25280), or the claimant is not subject to the requirements of those provisions.

(f) Whenever the board has authorized the prepayment of a claim pursuant to Section 25299.57, and the amount of money available in

the fund is insufficient to pay the claim, the owner or operator shall remain obligated to undertake the corrective action in accordance with Section 25299.37.

SEC. 4. Section 25299.58 of the Health and Safety Code is amended to read:

25299.58. (a) Except as provided in subdivision (d), if the board makes the determination specified in subdivision (b), the board may only reimburse those costs which are related to the compensation of third parties for bodily injury and property damages and which exceed the level of financial responsibility required to be obtained pursuant to Section 25299.32 but not more than nine hundred ninety thousand dollars ($990,000) for each occurrence.

(b) A claim may be paid if the board makes all of the following findings:

(1) There has been an unauthorized release of petroleum into the environment from an underground storage tank.

(2) The claimant has been ordered to pay a settlement or final judgment for third-party bodily injury or property damage arising from operating an underground storage tank.

(3) The claimant has complied with Section 25299.31 and the permit requirements of Chapter 6.7 (commencing with Section 25280).

(4) The claimant is required to undertake or contract for corrective action pursuant to Section 25299.37, or, as of January 1, 1988, the claimant has initiated corrective action in accordance with Division 7 (commencing with Section 13000) of the Water Code or Chapter 6.7 (commencing with Section 25280).

(c) A claimant may be reimbursed by the fund for compensation of third parties for only the following:

(1) Medical expenses.

(2) Actual lost wages or business income.

(3) Actual expenses for remedial action to remedy the effects of damage to the property of the third party caused by the unauthorized release of petroleum from an underground storage tank.

(4) The fair market value of the property rendered permanently unsuitable for use by the unauthorized release of petroleum from an underground storage tank.

(d) The board shall pay a claim submitted pursuant to subdivision (e) of Section 25299.54 for the costs related to the compensation of third parties for bodily injury and property damages which exceed ten thousand dollars ($10,000) but not more than nine hundred ninety thousand dollars ($990,000) for each occurrence.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to fully implement the provisions regulating underground storage tank systems and to comply with federal law regulating these

tanks, thereby protecting public health and safety and the environment, it is necessary that this act take effect immediately.

CHAPTER 1034

An act to amend Section 211 of the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 211 of the Revenue and Taxation Code is amended to read:

211. (a) The exemption of fruit- and nut-bearing trees until four years after the season in which they were planted in orchard form and grapevines until three years after the season in which they were planted in vineyard form is as specified in subdivision (i) of Section 3 of Article XIII of the Constitution. For purposes of exemption pursuant to this subdivision, any fruit- or nut-bearing tree, or any grapevine, severely damaged during the exemption period by the December 1990 freeze so as to require pruning to the trunk or bud union to establish a new shoot as a replacement for the damaged tree or grapevine, shall be considered a new planting in orchard or vineyard form.

(b) The exemption of timber is as specified in subdivision (j) of Section 3 of Article XIII of the Constitution and Section 436.

SEC. 2. Notwithstanding Section 2229 of the Revenue and Taxation Code, the requirements of that section relating to any exemption of property for more than five years or for more than 75 percent of the value thereof, shall not apply to any exemption made by this act. In addition, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to preserve the appropriate tax treatment of vital agricultural resources severely damaged by recent natural disasters, it is necessary that this act take effect immediately.

CHAPTER 1035

An act to amend Section 1202.5 of the Public Utilities Code, relating to railroads.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 1202.5 of the Public Utilities Code is amended to read:

1202.5. In prescribing the proportions in which the expense of construction, reconstruction, alteration, or relocation of grade separations shall be divided between railroad or street railroad corporations and public agencies, in proceedings under Section 1202, the commission, unless otherwise provided in this section, shall be governed by the following standards:

(a) Where a grade separation project, whether initiated by a public agency or a railroad, will not result in the elimination of an existing grade crossing, located at or within a reasonable distance from the point of crossing of the grade separation, the commission shall require the public agency or railroad applying for authorization to construct such grade separation to pay the entire cost.

(b) Where a grade separation project initiated by a public agency will directly result in the elimination of one or more existing grade crossings, located at or within a reasonable distance from the point of crossing of the grade separation, the commission shall apportion against the railroad 10 percent of the cost of the project. The remainder of such costs shall be apportioned against the public agency or agencies affected by such grade separation.

(c) Where a grade separation project initiated by a railroad will directly result in the elimination of an existing grade crossing, located at or within a reasonable distance from the point of crossing of the grade separation, the commission shall apportion 10 percent of the cost, attributable to the presence of the highway facilities, against the public agency or agencies affected by the project, and the remainder thereof to the railroad or railroads applying for authorization to construct such grade separation.

(d) Where the project consists of an alteration or reconstruction of an existing grade separation for the purpose of increasing the capacity of the structure for highway purposes, the commission shall apportion 10 percent of the cost against the railroad and the balance against the public agency or agencies affected by the grade separation. There shall be no apportionment of cost to the railroad if it did not bear any of the cost of the original project, in which case the public agency or agencies shall pay 100 percent of the cost of the alteration or reconstruction of the grade separation. An allocation of funds set aside pursuant to Section 190 of the Streets and Highways

Code may be made for such a project notwithstanding subdivision (d) of Section 2454 of the Streets and Highways Code.

Where the project consists of an alteration or reconstruction of an existing grade separation for the purpose of increasing the capacity of the structure for railway purposes, the commission shall apportion 10 percent of the cost against the public agency or agencies affected and the balance against the railroad applying for authorization to alter or reconstruct the grade separation. There shall be no apportionment of cost to the public agency or agencies if the agency or agencies did not bear any of the cost of the original project, in which case the railroad shall pay 100 percent of the cost of the alteration or reconstruction of the grade separation.

(e) In the event the commission finds that a particular project does not clearly fall within the provisions of any one of the above categories, the commission shall make a specific finding of fact on the relation of the project to each of the categories, and in apportioning the costs, it shall assess against the railroad a reasonable percentage, if any, of the cost not exceeding the percentage specified in subdivision (b), dependent on the findings of the commission with respect to the relation of the project to each category. The remainder of such cost shall be apportioned against the public agency or agencies affected by the project.

(f) In the event the commission finds that the respective shares of any apportionment should be divided between two or more railroads or two or more public agencies, the commission, to the extent that it has jurisdiction to do so in a particular proceeding before it, shall divide the shares between the railroads or the public agencies, or both, on any reasonable basis, to be decided by the commission, but in so doing shall follow the standards hereinabove prescribed for apportionment between railroads and public agencies, respectively.

(g) The standards herein prescribed for apportionment of costs of grade separations shall not be applicable where federal funds are used. On such projects, the apportionments shall be in accordance with federal law and the rules, regulations, and orders of the federal agency administering such law, where applicable.

(h) No provision of this section or of the Public Utilities Code shall be construed as in any way limiting the right of public agencies or railroads to negotiate agreements apportioning costs of grade separations, and the validity of any and all such agreements is hereby recognized for all purposes regardless whether the method of apportionment prescribed therein conforms to the standards hereinabove prescribed.

As used in this section "public agency" includes a separation of grade district, as well as the state, a county, city, or other political subdivision.

CHAPTER 1036

An act to amend Sections 17052.5 and 23601.5 of the Revenue and Taxation Code, and to amend Section 9 of Chapter 1291 of the Statutes of 1989, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor October 14, 1991 Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 17052.5 of the Revenue and Taxation Code is amended to read:

17052.5. (a) For taxable years beginning on or after January 1, 1990, and before January 1, 1994, there shall be allowed as a credit against the "net tax" (as defined by Section 17039), an amount equal to 10 percent of the cost of a solar energy system installed on premises, used for commercial purposes, which are located in California and which are owned by the taxpayer during the taxable year. For purposes of taxpayers who lease a solar energy system pursuant to subdivision (j), the tax credit shall apply only to the principal recovery portion of lease payments, as defined in subdivision (*l*), for the term of the lease not to exceed 10 years, which are made during the taxable year, and to the amounts which are expended on the purchased portion of the solar energy system, including installation charges, during the taxable year.

(b) (1) The solar energy tax credit shall be claimed on the state income tax return for the taxable year in which the solar energy system was installed.

(2) The solar energy tax credit may not be claimed for any solar energy system with a generating capacity in excess of 30 megawatts for any taxable year, or portion thereof, for which the Internal Revenue Code does not allow at least a 10-percent tax credit for solar energy systems with a generating capacity in excess of 30 megawatts which is equivalent in scope to the credit available under the Internal Revenue Code for the 1989 calendar year.

(c) A taxpayer who claimed the solar energy tax credit in the state income tax return for the taxable year in which the solar energy system was installed may claim the credit in subsequent years for additions to the system or additional systems by the amount prescribed in subdivision (a).

(d) For purposes of computing the credit provided by this section, the cost of any solar energy system eligible for the credit shall be reduced by any grant provided by a public entity for that system.

(e) The basis of any system for which a credit is allowed shall be reduced by the amount of the credit and the amount of any grant provided by a utility or public agency for the solar energy system. The basis adjustment shall be made for the taxable year for which the

credit is allowed.

(f) With the exception of a husband and wife, if there is more than one owner of a premises on which a solar energy system is installed, each owner shall be eligible to receive the solar energy tax credit in proportion to his or her ownership interests in the premises. In the case of a husband or wife who files a separate return, the credit may be taken by either or equally divided between them.

(g) In the case of a partnership, the solar energy tax credit may be divided between the partners pursuant to a written partnership agreement.

(h) In the case where the credit allowed under this section exceeds the "net tax," the excess may be carried over to reduce the "net tax" in the following year, and succeeding years if necessary, until the credit has been exhausted.

(i) No tax credit may be claimed under this section for any expenditures which have been otherwise claimed as a tax credit for the current or any prior taxable year as energy conservation measures under this part.

(j) Taxpayers who lease a solar energy system installed on premises in California shall receive a tax credit as provided in subdivision (a), if the lessee can confirm, if necessary, by a written document signed by the lessor that (1) the lessor irrevocably elects not to claim a state tax credit for the solar energy system, and (2) if the system is installed in a locality served by a municipal solar utility, that the lessor holds a valid permit from the municipal solar utility. Leasing requirements may be established by the State Energy Resources Conservation and Development Commission as part of the solar energy system eligibility criteria.

(k) The State Energy Resources Conservation and Development Commission shall, after one or more public hearings, establish limits on the eligible costs of solar energy systems in terms of dollars per kilowatt and guidelines and criteria for solar energy systems which shall be eligible for the credit provided by this section. These guidelines and criteria shall include, but are not limited to, minimum requirements for safety, market readiness, reliability, and durability of solar energy systems. Any solar energy system with a generating capacity in excess of 100 kilowatts is eligible for the credit only if the owner of the solar energy system first obtains a finding from the commission that the system is eligible for the credit under the guidelines and criteria established pursuant to this subdivision. Any solar energy system certified by the commission pursuant to Chapter 6 (commencing with Section 25500) of Division 15 of the Public Resources Code shall be deemed eligible for the credit. The Franchise Tax Board shall prescribe those regulations as may be necessary to carry out the purposes of this section.

(*l*) The State Energy Resources Conservation and Development Commission may obtain a claimant's social security number or taxpayer identification number through its tax credit application and certification process for purposes of identifying a qualifying taxpayer

to the Franchise Tax Board. The social security number and identification number so obtained shall be used exclusively for state tax administrative purposes.

(m) For purposes of this section, the following definitions shall apply:

(1) "Installed" means placed in a functionally operative state.

(2) "Cost" includes equipment, installation charges, and compensation paid to the owner of burdened property in connection with the acquisition of a solar easement, as defined in Section 801.5 of the Civil Code, and the fees for the recording of the easement. In the case of a system which is leased, "cost" means the principal recovery portion of lease payments, which is the cost incurred by the taxpayer in acquiring the solar energy system, excluding interest charges and maintenance expenses.

"Cost" does not include interest charges and costs associated with the acquisition of an easement other than a solar easement.

"Cost" includes all components to carry out the intended use of the system if they are an integral part of the system.

(3) "Owner" includes duly recorded holders of legal title, lessees with at least three years remaining on their lease or easement granting use of the premises, a person purchasing premises under a contract of sale, or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy to the premises, a person who is a member of a nonprofit corporation or association which is a lessee with at least three years remaining on its lease.

(4) "Premises" means the principal stationary location in California where the system is installed for direct use or for purposes of sale of energy, and includes land, easements, and buildings or portions thereof.

(5) "Commercial purposes" means the installation of solar energy systems on premises other than single-family dwellings.

(6) "Single-family dwelling" means single-family residences, mobilehomes, and the individual units of condominiums.

"Single-family dwelling" does not include cooperatives, apartment buildings, or other similar multiple dwellings, including buildings and any other common areas of a condominium maintained by a homeowners' association.

(7) (A) "Solar energy system" means the use of solar devices designed or intended for the individual function of production of electricity in excess of 30 watts per device.

"Solar energy system" includes, but is not limited to, solar thermal electric systems and photovoltaic systems.

For purposes of this section, "solar energy system" does not include solar devices for the individual function of wind energy for the production of electricity or mechanical work.

(B) Eligible solar energy systems shall have a useful life of not less than five years.

(8) "Solar device" means the equipment associated with the

collection, conversion, transfer, distribution, storage, or control of solar energy. In the case of a solar device associated with two or more solar energy systems, the credit allowed for the solar device may be taken for any one of the systems, or divided equally between them.

(9) "Municipal solar utility" means a city, county, or municipal utility district, or agency thereof, which sells or leases solar or other energy generating equipment or energy saving devices for residential, commercial, agricultural, or industrial uses or which issues permits to companies engaged in the leasing of this equipment.

(n) Except for purposes of subdivision (h) of Section 17052.4, the provisions of this section shall not apply to any solar energy system which continues to qualify for the tax credit authorized by former Section 17052.5 (as amended by Chapter 1200 of the Statutes of 1986) by meeting the eligibility requirements of subdivision (*l*) of that section.

(o) This section shall remain in effect only until December 1, 1994, and as of that date is repealed. However, any unused credit may continue to be carried forward, as provided in subdivision (h), until the credit has been exhausted.

(p) Notwithstanding subdivision (a) and paragraph (1) of subdivision (b), a taxpayer who, on or before the end of a taxable year, has commenced construction, or made expenditures, associated with the installation of a solar energy system, shall be eligible in that taxable year for the tax credit to the extent of the cost paid or incurred during that taxable year for the construction or expenditures for which a credit is otherwise allowable by this section, if the installation is completed on or before the end of the sixth month of the taxpayer's next taxable year.

SEC. 2. Section 23601.5 of the Revenue and Taxation Code is amended to read:

23601.5. (a) For income years beginning on or after January 1, 1990, and before January 1, 1994, there shall be allowed as a credit against the "tax" (as defined by Section 23036), an amount equal to 10 percent of the cost of a solar energy system installed on premises, used for commercial purposes, which are located in California and which are owned by the taxpayer during the income year. For purposes of taxpayers who lease a solar energy system pursuant to subdivision (i), the tax credit shall apply only to the principal recovery portion of lease payments, as defined in subdivision (k), for the term of the lease not to exceed 10 years, which are made during the income year, and to the amounts expended on the purchased portion of the solar energy system, including installation charges, during the income year.

(b) (1) The solar energy tax credit shall be claimed on the state income tax return for the income year in which the solar energy system was installed.

(2) The solar energy tax credit may not be claimed for any solar energy system with a generating capacity in excess of 30 megawatts

for any income year, or portion thereof, for which the Internal Revenue Code does not allow at least a 10-percent tax credit for solar energy systems with a generating capacity in excess of 30 megawatts which is equivalent in scope to the credit available under the Internal Revenue Code for the 1989 calendar year.

(c) A taxpayer who claimed the solar energy tax credit on the state income tax return for the income year in which the solar energy system was installed may claim the credit in subsequent years for additions to the system or additional systems by the amount prescribed in subdivision (a).

(d) For purposes of computing the credit provided by this section, the cost of any solar energy system eligible for the credit provided by this section shall be reduced by any grant provided by a public entity for that system.

(e) The basis of any system for which a credit is allowed shall be reduced by the amount of the credit and the amount of any grant provided by a utility or public agency for the solar energy system. The basis adjustment shall be made for the income year for which the credit is allowed.

(f) If there is more than one owner of a premises on which a solar energy system is installed, each owner shall be eligible to receive the solar energy tax credit in proportion to its ownership interests in the premises. In the case of a partnership, the solar energy tax credit may be divided between the partners pursuant to a written partnership agreement.

(g) In the case where the credit allowed under this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and succeeding years if necessary, until the credit is exhausted.

(h) No tax credit may be claimed under this section for any expenditures which have been otherwise claimed as a tax credit for the current or any prior income year as energy conservation measures under this part.

(i) Taxpayers who lease a solar energy system installed on premises in California shall receive a tax credit as provided in subdivision (a), if the lessee can confirm, if necessary, by a written document signed by the lessor that (1) the lessor irrevocably elects not to claim a state tax credit for the solar energy system, and (2) if the system is installed in a locality served by a municipal solar utility, that the lessor holds a valid permit from the municipal solar utility. Leasing requirements may be established by the State Energy Resources Conservation and Development Commission as part of the solar energy system eligibility criteria.

(j) The State Energy Resources Conservation and Development Commission shall, after one or more public hearings, establish limits on the eligible costs of solar energy systems in terms of dollars per kilowatt and guidelines and criteria for solar energy systems which shall be eligible for the credit provided by this section. These guidelines and criteria shall include, but are not limited to, minimum

requirements for safety, market readiness, reliability, and durability of solar energy systems.

Any solar energy system with a generating capacity in excess of 100 kilowatts is eligible for the credit only if the owner of the solar energy system first obtains a finding from the commission that the system is eligible for the credit under the guidelines and criteria established pursuant to this subdivision. Any solar energy system certified by the commission pursuant to Chapter 6 (commencing with Section 25500) of Division 15 of the Public Resources Code shall be deemed eligible for the credit.

The Franchise Tax Board shall prescribe those regulations as may be necessary to carry out the purposes of this section.

(k) The State Energy Resources Conservation and Development Commission may obtain a claimant's taxpayer identification number through its tax credit application and certification process for purposes of identifying a qualifying taxpayer to the Franchise Tax Board. The identification number so obtained shall be used exclusively for state tax administrative purposes.

(*l*) For purposes of this section, the following definitions shall apply:

(1) "Installed" means placed in a functionally operative state.

(2) "Cost" includes equipment, installation charges, and compensation paid to the owner of burdened property in connection with the acquisition of a solar easement, as defined in Section 801.5 of the Civil Code, and the fees for the recording of the easement. In the case of a system which is leased, "cost" means the principal recovery portion of lease payments, which is the cost incurred by the taxpayer in acquiring the solar energy system, excluding interest charges and maintenance expenses.

"Cost" does not include interest charges and costs associated with the acquisition of an easement other than a solar easement.

"Cost" includes all components to carry out the intended use of the system if they are an integral part of the system.

(3) "Owner" includes duly recorded holders of legal title, lessees with at least three years remaining on their lease or easement granting use of the premises, a person purchasing premises under a contract of sale, or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy to the premises, a person who is a member of a nonprofit corporation or association which is a duly recorded holder of legal title, or a person who is a member of a nonprofit corporation or association which is a lessee with at least three years remaining on its lease.

(4) "Premises" means the principal stationary location in California where the system is installed for direct use or for purposes of sale of energy, and includes land, easements, and buildings or portions thereof.

(5) "Commercial purposes" means the installation of solar energy systems on premises other than single-family dwellings.

(6) "Single-family dwelling" means single-family residences, mobilehomes, and the individual units of condominiums.

"Single-family dwelling" does not include cooperatives, apartment buildings, or other similar multiple dwellings, including buildings and any other common areas of a condominium maintained by a homeowners' association.

(7) (A) "Solar energy system" means the use of solar devices designed or intended for the individual function of production of electricity in excess of 30 watts per device.

"Solar energy system" includes, but is not limited to, solar thermal electric systems and photovoltaic systems.

For purposes of this section, "solar energy system" does not include solar devices for the individual function of wind energy for the production of electricity or mechanical work.

(B) Eligible solar energy systems shall have a useful life of not less than five years.

(8) "Solar device" means the equipment associated with the collection, conversion, transfer, distribution, storage, or control of solar energy. In the case of a solar device associated with two or more solar energy systems, the credit allowed for the solar device may be taken for any one of the systems, or divided equally between them.

(9) "Municipal solar utility" means a city, county, or municipal utility district, or agency thereof, which sells or leases solar or other energy generating equipment or energy saving devices for residential, commercial, agricultural, or industrial uses or which issues permits to companies engaged in the leasing of this equipment.

(m) Except for purposes of subdivision (g) of Section 23601.4, the provisions of this section shall not apply to any solar energy system which continues to qualify for the tax credit authorized by former Section 23601 (as amended by Chapter 1200 of the Statutes of 1986) by meeting the eligibility requirements of subdivision (j) of that section.

(n) This section shall remain in effect only until December 1, 1994, and as of that date is repealed. However, any unused credit may continue to be carried forward, as provided in subdivision (g), until the credit has been exhausted.

(o) Notwithstanding subdivision (a) and paragraph (1) of subdivision (b), a taxpayer who, on or before the end of an income year, has commenced construction, or made expenditures, associated with the installation of a solar energy system, shall be eligible in that income year for the tax credit to the extent of the cost paid or incurred during that income year for the construction or expenditures for which a credit is otherwise allowable by this section, if the installation is completed on or before the end of the sixth month of the taxpayer's next income year.

SEC. 3. Section 9 of Chapter 1291 of the Statutes of 1989 is amended to read:

Sec. 9. The State Energy Resources Conservation and

Development Commission shall report on the environmental and fiscal benefits and the fiscal cost of the credit allowed pursuant to Sections 17052.5 and 23601.5 of the Revenue and Taxation Code, as amended by the act amending this section, to the Legislature no later than June 1, 1993. The State Energy Resources Conservation and Development Commission may obtain the information needed to prepare this study from the Franchise Tax Board and taxpayers who apply for the credit allowed pursuant to Sections 17052.5 and 23601.5 of the Revenue and Taxation Code.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, unless otherwise specifically provided, the provisions of this act shall be applied in the computation of taxes for taxable or income years beginning on or after January 1, 1991.

CHAPTER 1037

An act to amend Section 210 of, and to add Article 6 (commencing with Section 7380) to Chapter 2 of Part 2 of Division 6 of, the Fish and Game Code, relating to fish and game.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 210 of the Fish and Game Code is amended to read:

210. (a) The commission shall provide copies of the regulations added, amended, or repealed pursuant to subdivision (e) of Section 206, subdivision (e) of Section 207, and subdivision (d) of Section 208 to each county clerk, each district attorney, and each judge of a municipal court or justice court in the state.

(b) The commission and the department may do anything that is deemed necessary and proper to publicize and distribute regulations so that persons likely to be affected will be informed of them. The failure of the commission to provide any notice of its regulations, other than by filing them in accordance with Section 215, shall not impair the validity of the regulations.

(c) The department or the license agent may give a copy of the current applicable published regulations to each person issued a license at the time the license is issued.

SEC. 2. Article 6 (commencing with Section 7380) is added to Chapter 2 of Part 2 of Division 6 of the Fish and Game Code, to read:

Article 6. Steelhead Trout

7380. (a) In addition to a valid California sportfishing license issued pursuant to Section 7149 and any applicable sport license stamp issued pursuant to this code, after January 1, 1993, a person taking steelhead trout in inland waters, shall have in his or her possession a nontransferable steelhead trout catch report-restoration card issued by the department.

(b) The cost of the card shall be three dollars ($3), as adjusted pursuant to Section 713. The funds received by the department from the sale of the card shall be deposited in the Fish and Game Preservation Fund and shall be available for expenditure upon appropriation by the Legislature. The department shall maintain the internal accountability necessary to ensure that all restrictions and requirements pertaining to the expenditure of these funds are met.

(c) The commission shall adopt regulations necessary to implement this section. These regulations shall include, but not be limited to, procedures necessary to obtain appropriate steelhead trout resources management information, a requirement that the card contain a statement explaining potential uses of the funds received as authorized by Section 7381, and a voluntary return of the cards to the department.

7381. (a) Revenue received pursuant to Section 7380 may only be expended, upon appropriation by the Legislature, to monitor, restore, or enhance steelhead trout resources consistent with Sections 6901 and 6902, and to administer the catch report-restoration card program. The department shall submit all proposed expenditures, including proposed expenditures for administrative purposes, to the Advisory Committee on Salmon and Steelhead Trout for review and comment prior to submitting a request for inclusion of the appropriation in the annual Budget Bill. The committee may recommend revisions in any proposed expenditure to the Legislature and the commission.

(b) The department shall report to the Legislature on or before July 1, 1996, regarding the implementation of the catch report-restoration card program, the projects undertaken using revenues derived pursuant to that program, the benefits derived, and its recommendation regarding whether the catch report-restoration card requirement should be continued.

(c) This section shall become inoperative on July 1, 1997, and, as of January 1, 1998, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1998, deletes or extends the date on which it becomes inoperative and is repealed.

CHAPTER 1038

An act to amend Sections 69643, 72000, 72411, 78100, 78103, 78300, 84001, 84713, and 87003 of, to amend and renumber the heading of Article 2.5 (commencing with Section 84750) of Chapter 5 of Part 50 of, to add Sections 81663, 84501, 84810.5, and 87482.7 to, to repeal Article 1 (commencing with Section 84700) of Chapter 5 of Part 50 of, and to repeal and add Sections 72253.3 and 87487 of, the Education Code, to add Section 15814.21 to the Government Code, and to repeal Sections 6 and 7 of Chapter 565 of the Statutes of 1983, relating to community colleges, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 69643 of the Education Code is amended to read:

69643. (a) There is in the state government the Advisory Committee on Extended Opportunity Programs and Services. It shall be comprised of nine members appointed by the board, two members appointed by the Speaker of the Assembly and two members appointed by the Senate Committee on Rules. The nine members appointed by the board shall serve for four-year terms, except the first term of each shall be determined by lot at the first meeting of the board. Three shall serve for four years, three shall serve for three years, and three shall serve for two years. The two members appointed by the Speaker of the Assembly and the two members appointed by the Senate Committee on Rules shall serve at the pleasure of the respective appointing powers.

(b) The chairperson and vice chairperson of the committee shall be designated by the board.

(c) The members of the committee shall serve without compensation, but shall be reimbursed for necessary traveling and other expenses incurred in performing their duties and responsibilities.

(d) The committee shall serve as an advisory body to the board, shall formulate and present policy recommendations as it determines will effect statewide establishment and conduct of community college programs of extended opportunities and services, shall review annually and report to the board the progress made under this article with the California Community Colleges toward the extension of educational opportunities for all students who may profit from instruction, and make other recommendations to implement this article. The Chancellor of the California Community Colleges shall be executive secretary of the committee, shall report to the board on the actions of the committee, and, at the

recommendation of the committee and its direction, shall make recommendations to the board pursuant to this article.

(e) All meetings of the committee shall be open and public, and all persons shall be permitted to attend any meeting of the committee.

SEC. 2. Section 72000 of the Education Code is amended to read:

72000. (a) The district and its governing board may sue and be sued, and shall act in accordance with Section 70902.

(b) The district name shall be adopted and changed as follows:

(1) The first governing board of any new community college district shall, at the first meeting of the board or as soon as practicable thereafter, name the district. The district shall be designated as the "_____ Community College District."

(2) The governing board of a community college district may, by resolution, change the name of the district or of any of the community colleges maintained by the district. However, the name shall continue to contain the words "Community College District" or "Community College," as appropriate.

(3) Whenever a petition is presented to the governing board of a community college district, signed by at least 15 qualified electors of any community college district, asking that the name of the district, be changed, the governing board shall, at its next regular meeting, designate a day upon which it will conduct a hearing and act upon the petition, which hearing shall not be less than 10 days nor more than 40 days after that regular meeting. The clerk of the governing board shall give notice to all interested parties by sending a notice of the time for the hearing of the petition. Notices shall be mailed at least 10 days before the day set for the hearing. At the hearing the board shall by resolution either grant or deny the petition, and if the petition is granted, the clerk shall notify the Board of Governors of the California Community Colleges of the change of the name of the district or of any community college maintained by the district.

(4) The name "_____ Community College District" and the names of community colleges maintained by the district are the property of the district. No person shall, without permission of the board, use these names, or any abbreviation of them, or any name of which these words are a part in any of the following ways:

(A) To designate any business, social, political, religious, or other organization, including, but not limited to, any corporation, firm, partnership, association, group, activity or enterprise.

(B) To imply, indicate or otherwise suggest that any organization, or any product or service of the organization is connected or affiliated with, or is endorsed, favored or supported by, or is opposed by one or more California community colleges, the Board of Governors of the California Community Colleges, or the office of the Chancellor of the California Community Colleges.

(C) To display, advertise, or announce these names publicly at or in connection with any meeting, assembly, or demonstration, or any propaganda, advertising or promotional activity of any kind which

has for its purpose or any part of its purpose the support, endorsement, advancement, opposition or defeat of any strike, lockout, or boycott or of any political, religious, sociological, or economic movement, activity or program.

(D) The provisions of this section shall not preclude the use of the name "_____ Community College" or "_____ Community College District" by any person or organization otherwise subject to this section using the name immediately prior to the effective date of this section, so long as the name is not used in additional, different ways.

(E) Nothing in this section shall interfere with or restrict the right of any person to make a true and accurate statement in the course of stating his or her experience or qualifications for any academic, governmental, business, or professional credit or enrollment, or in connection with any academic, governmental, professional or other employment whatsoever.

(5) Any reference to junior colleges or junior college districts in any law shall be deemed to refer to community colleges and community college districts, respectively.

(c) Meetings of the governing board shall be held as follows:

(1) Within 20 days after the appointment of the community college board provided for by Section 72023, the board of governors shall call an initial organizational meeting of the board by giving at least 10 days' notice by registered mail to each member, for the purposes of organizing the community college board.

At the initial organizational meeting the community college board shall organize by electing a president from its members and a secretary, and may transact any other business relating to the affairs of the community college district.

(2) (A) The governing board of each community college district shall hold an annual organizational meeting. In a year in which a regular election for governing board members is conducted, the meeting shall be held on a day within a 15-day period that commences with the date upon which a governing board member elected at that election takes office. Organizational meetings in years in which no regular election for governing board members is conducted shall be held during the same 15-day period on the calendar. Unless otherwise provided by rule of the governing board, the day and time of the annual meeting shall be selected by the board at its regular meeting held immediately prior to the first day of such 15-day period, and the board shall notify the county superintendent of schools of the day and time selected. The secretary of the board shall, within 15 days prior to the date of the annual meeting, notify in writing all members and members-elect of the date and time selected for the meeting.

(B) If the board fails to select a day and time for the meeting, the county superintendent of schools having jurisdiction over the district shall, prior to the first day of such 15-day period and after the regular meeting of the board held immediately prior to the first day of the

15-day period, designate the day and time of the annual meeting. The day designated shall be within the 15-day period. He or she shall notify in writing all members and members-elect of the date and time.

(C) At the annual meeting, the governing board of the community college district shall organize by electing a president, from its members, and a secretary.

(3) As an alternative to the procedures set forth in paragraph (2), in a community college district the boundaries of which are coterminous with the boundaries of a city and county, the governing board members of which district are elected in accordance with a city and county charter, the annual organizational meeting of the governing board may be held between January 8 and January 31, inclusive, as provided in rules and regulations adopted by the board. At the annual organizational meeting the community college district governing board shall organize by electing a president and vice president from its members.

(4) Subject to this section, the governing board of any community college district shall hold regular monthly meetings and shall by rule and regulation fix the time and place for its regular meetings. The action shall be given proper notice to all members of the board of the regular meetings.

(d) The governing board shall conduct its meetings as follows:

(1) A notice identifying the location, date, and time of the meeting shall be posted in each community college maintained by the district at least 10 days prior to the meeting and shall remain so posted to and including the time of the meeting.

(2) The governing board shall conduct its meetings within the boundaries of the community college district, except as provided in subparagraphs (A) and (B).

(A) The governing board may meet outside of its district boundaries for the limited purpose of meeting with another local agency so long as the meeting meets both of the following criteria:

(i) The meeting occurs within the boundaries of one of the participating local agencies.

(ii) The meeting is open and accessible to the public, including the residents of the district whose board is meeting outside the boundaries of the district.

(B) The governing board may meet outside of its district boundaries if the board finds it necessary to meet in closed session with its attorney to discuss pending litigation and if the attorney's office is located outside of the boundaries of the district.

(3) Except as otherwise provided by law, the governing board shall act by majority vote of all of the membership constituting the governing board.

(4) Every official action taken by the governing board of every community college district shall be affirmed by a formal vote of the members of the board, and the governing board of every community college district shall keep minutes of its meetings, and shall maintain

a journal of its proceedings in which shall be recorded every official act taken.

(5) Notwithstanding any other provision of law, if a community college district governing board consists of seven members and not more than two vacancies occur on the governing board, the vacant position or positions shall not be counted for purposes of determining how many members of the board constitute a majority. Whenever any of the provisions of this code require unanimous action of all or a specific number of the members elected or appointed to the governing board, the vacant position or positions shall be excluded from determination of the total membership constituting the governing board.

SEC. 3. Section 72253.3 of the Education Code is repealed.

SEC. 4. Section 72253.3 is added to the Education Code, to read:

72253.3. If a student body association has been established at a community college as authorized by Section 76060, any student representation fee shall be established and managed pursuant to Section 76060.5.

SEC. 5. Section 72411 of the Education Code is amended to read:

72411. (a) Every educational administrator shall be employed, and all other administrators may be employed, by the governing board of the district by an appointment or contract of up to four years in duration. The governing board of a community college district, with the consent of the administrator concerned, may at any time terminate, effective on the next succeeding first day of July, the term of employment of, and any contract of employment with, the administrator of the district, and reemploy the administrator, on any terms and conditions as may be mutually agreed upon by the board and the administrator, for a new term to commence on the effective date of the termination of the existing term of employment.

(b) If the governing board of a district determines that an administrator is not to be reemployed by appointment or contract in his or her administrative position upon the expiration of his or her appointment or contract, the administrator shall be given written notice of this determination by the governing board. For an administrator employed by appointment or contract, the term of which is longer than one year, the notice shall be given at least six months in advance of the expiration of the appointment or contract unless the contract or appointment provides otherwise. For every other administrator, notice that the administrator may not be reemployed by appointment or contract in his or her administrative position for the following college year shall be given on or before March 15.

(c) If the governing board fails to reemploy an administrator by appointment or contract in his or her administrative position and the written notice provided for in this section has not been given, the administrator shall, unless the existing appointment or contract provides otherwise, be deemed to be reemployed for a term of the same duration as the one completed with all other terms and

conditions remaining unchanged.

(d) Subdivisions (b) and (c) do not apply to any administrator who holds a position that is funded for less than a college year, is assigned to an acting position whose continuing right to hold the position depends on being selected for the position on a regular basis, is terminated pursuant to Section 87743, 88017, or 88127, or is dismissed for cause.

SEC. 5.5. Section 78100 of the Education Code is amended to read:

78100. The governing board of each community college district shall provide library services for the students and faculty of the district by establishing and maintaining community college libraries or by contractual arrangements with another public agency.

SEC. 6. Section 78103 of the Education Code is amended to read:

78103. The libraries shall be open for the use of the faculty and the students of the community college district during the day. In addition, the libraries may be open at other hours, including evenings and Saturdays, as the governing board may determine. Libraries open to serve students during evening and Saturday hours shall be under the supervision of certificated personnel or those employed pursuant to minimum standards adopted by the board of governors.

SEC. 7. Section 78300 of the Education Code is amended to read:

78300. (a) The governing board of any community college district may, without the approval of the Board of Governors of the California Community Colleges, establish and maintain community service classes in civic, vocational, literacy, health, homemaking, technical and general education, including, but not limited to, classes in the fields of music, drama, art, handicraft, science, literature, nature study, nature contacting, aquatic sports and athletics. These classes shall be designed to provide instruction and to contribute to the physical, mental, moral, economic, or civic development of the individuals or groups enrolled therein.

(b) Community service classes shall be open for the admission of adults and of those minors as in the judgment of the governing board may profit therefrom.

(c) Governing boards shall not expend General Fund moneys to establish and maintain community service classes. Governing boards may charge students enrolled in community service classes a fee not to exceed the cost of maintaining community service classes, or may provide instruction in community service classes for remuneration by contract, or with contributions or donations of individuals or groups. The board of governors shall adopt guidelines defining the acceptable reimbursable costs for which a fee may be charged and shall collect data and maintain uniform accounting procedures to ensure that General Fund moneys are not used for community services classes.

SEC. 8. Section 81663 is added to the Education Code, to read:

81663. (a) The governing board of any community college

district may borrow funds from federal or state regulated financial institutions for design and construction costs associated with retrofitting buildings to become more energy efficient. The amount borrowed shall not exceed the amount that can be repaid from energy cost avoidance savings accumulated from the improvement of facilities.

(b) Any savings association may make loans or advances of credit pursuant to subdivision (a) in an amount not in excess of 5 percent of its total assets. This investment may be in addition to any other investment savings associations are permitted to undertake.

SEC. 9. Section 84001 of the Education Code is amended to read:

84001. It is the intent of the Legislature that the administration of the laws governing the financial support for the California Community Colleges be conducted within the purview of the following principles and policies:

The system of public support for the California Community Colleges should be designed to strengthen and encourage local responsibility for control of community college education. Community college districts should be so organized that they can facilitate the provision of full educational opportunities for all who attend. Local control is best accomplished by the development of strong, vigorous, and properly organized local administrative units. It is the state's responsibility to create or facilitate the creation of local districts of sufficient size to properly discharge local responsibilities and to spend the tax dollar effectively.

The system of public support for the California Community Colleges should assure that state, local, and other funds are adequate for the support of a realistic funding level. It is unrealistic and unfair to the less wealthy districts to provide for only a part of the financing necessary for an adequate educational program.

The system of public support should permit and encourage community college districts to provide and support improved district organization and educational programs. The system of public support should prohibit the introduction of undesirable organization and educational practices, and should discourage any such practices now in effect. Improvement of programs in particular districts is in the interests of the state as a whole as well as of the people in individual districts, since the excellence of the programs in some districts will tend to bring about program improvement in other districts.

The system of public support should make provision for the apportionment of state funds to local districts on a strictly objective basis that can be computed as well by the local districts as by the state. The principle of local responsibility requires that the granting of discretionary powers to state officials over the distribution of state aid and the granting to these officials of the power to impose undue restriction on the use of funds and the conduct of educational programs at the local level be avoided.

The system of public support for the California Community

Colleges should effect a partnership between the state and community college districts, with both participating equitably in accordance with their relative ability. The respective abilities should be combined to provide a financial plan between the state and the districts for public support.

The system of public support for the California Community Colleges should provide for essential educational opportunities for all who attend. Provision should be made in the financial plan for adequate financing of all educational services.

The broader based taxing power of the state should be utilized to raise the level of financial support in the properly organized but financially weak districts of the state, thus contributing greatly to the equalization of educational opportunity for the students residing therein. It should also be used to provide a minimum amount of guaranteed support to all districts, for this state assistance serves to develop among all districts a sense of responsibility to the entire system of public education in the state.

SEC. 10. Section 84501 is added to the Education Code, to read:

84501. Notwithstanding any other provision of law, commencing with the 1991–92 fiscal year, the term "community college average daily attendance" (ADA) means full-time equivalent student (FTES) as that term is defined by regulations adopted by the Board of Governors of the California Community Colleges.

SEC. 10.5. Section 84713 of the Education Code is amended to read:

84713. This article shall remain operative until July 1, 1995, only for the purposes of determining the minimum amount of revenue to which community college districts are entitled pursuant to subdivision (h) of Section 84750 and for auditing calculations for prior years. This article shall become inoperative on July 1, 1995, and, as of January 1, 1996, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1996, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 11. The heading of Article 2.5 (commencing with Section 84750) of Chapter 5 of Part 50 of the Education Code is amended and renumbered to read:

Article 2. Program-Based Funding

SEC. 11.5. Section 84810.5 is added to the Education Code, to read:

84810.5. (a) The Chancellor of the California Community Colleges shall compute each district's base inmate education allowance based on the prior year's level of funding, adjusted for such factors as the change in the adult population or other information that the chancellor may receive from the district. No allowances to increase their average daily attendance in those classes over the prior year's base shall be provided unless all districts are fully funded, in accordance with regulations of the Board of Governors of the

California Community Colleges, or the Legislature appropriates funds specifically for Section 84810 and this section.

(b) Notwithstanding any other provision of law, no funds for inmate education programs provided pursuant to Section 84810 shall be considered as part of the base revenues for community college districts in computing apportionments as prescribed in regulations of the Board of Governors of the California Community Colleges.

SEC. 12. Section 87003 of the Education Code is amended to read:

87003. (a) "Faculty" or "faculty member" means those employees of a community college district who are employed in academic positions that are not designated as supervisory or management for the purposes of Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code and for which minimum qualifications for service have been established by the board of governors adopted pursuant to subparagraph (B) of paragraph (1) of subdivision (b) of Section 70901 or subdivision (a) of Section 87356. Faculty include, but are not limited to, instructors, librarians, counselors, community college health services professionals, handicapped student programs and services professionals, extended opportunity programs and services professionals, and individuals employed to perform a service that, before July 1, 1990, required nonsupervisorial, nonmanagement community college certification qualifications.

(b) Any employees who are employed in faculty positions but who perform supervisory, management, or other duties related to college governance shall not, because of the performance of those incidental duties, be deemed supervisors or managers, as those terms are defined in Section 3540.1 of the Government Code. The incidental "supervisory" or "management" duties referred to in this subdivision include, but are not limited to, serving as a faculty member on hiring, selection, promotion, evaluation, budget development, or affirmative action committees, or making effective recommendations in connection with those activities.

SEC. 12.3. Section 87482.7 is added to the Education Code, to read:

87482.7. (a) The board of governors shall, pursuant to paragraph (6) of subdivision (b) of Section 70901, adopt regulations that establish minimum standards regarding the percentage of hours of credit instruction that shall be taught by full-time instructors.

(b) Upon notice by the board of governors, the Department of Finance shall transfer any money deducted from district apportionments pursuant to the regulations adopted under this section. This money shall be transferred to the Faculty and Staff Diversity Fund pursuant to Section 87107.

SEC. 12.5. Section 87487 of the Education Code is repealed.

SEC. 12.7. Section 87487 is added to the Education Code, to read:

87487. (a) The governing board of any community college district may establish a faculty internship program pursuant to regulations adopted by the Board of Governors of the California

Community Colleges and may employ, as faculty interns within the program, graduate students enrolled in the California State University, the University of California, or any other accredited institution of higher education subject to Chapter 3 (commencing with Section 94300) of Part 59.

(b) A student employed as a faculty intern shall be employed as a temporary faculty member under Section 87482.5 and shall meet the minimum qualifications set forth in paragraphs (1) to (3), inclusive. Unless and until the Board of Governors of the California Community Colleges adopts regulations pursuant to paragraph (1) of subdivision (a) of Section 87357, the board of governors shall adopt regulations that include all of the following:

(1) Faculty interns shall be enrolled in a master's or doctoral program at the University of California, the California State University, or any other accredited institution of higher education subject to Chapter 3 (commencing with Section 94300) of Part 59 and shall have completed at least one-half of the coursework for the master's or doctorate degree, or the equivalent, in that graduate program.

(2) Faculty interns may only be assigned to teach or to serve in a discipline in which they would be legally qualified to teach or render service upon completion of their graduate studies. A faculty intern shall be limited to two years of participation in the program.

(3) Each faculty intern shall serve under the direct supervision of a mentor who is legally qualified to teach the course or render the service that the faculty intern is providing. The district governing boards shall ensure that faculty mentors provide substantial direct in-class supervision and evaluation of interns' teaching capabilities. The mentor shall have no other regularly assigned duties during the time that the faculty intern is teaching or rendering service. The mentor is responsible for providing direct monitoring and systematic contact with the faculty intern.

SEC. 13. Section 15814.21 is added to the Government Code, to read:

15814.21. (a) In addition to revenues calculated for apportionment to community college districts pursuant to Section 84700 of the Education Code, if a community college capital outlay project has been approved by the Board of Governors of the California Community Colleges, the Chancellor of the California Community Colleges shall apportion state aid equal to the amount necessary for each district to meet its energy service contract obligation determined pursuant to this chapter. It is the intent of the Legislature that these funds be appropriated annually as a part of the state's general apportionment funds for the community colleges.

(b) If a community college district enters into an energy service contract with the Public Works Board pursuant to this chapter, the district shall, as a part of that energy service contract, authorize the chancellor and Controller to withhold from its annual apportionment the amount of funds necessary to satisfy its annual

energy service contract obligation to the Public Works Board. The agreement shall include authorization to withhold the additional apportionment amount and the amount determined to be the district's proportional share of the energy service contract obligation as determined pursuant to subdivision (a). The authorization shall have precedence over other expenditure obligations of the district. The chancellor shall certify the amounts, by district, to the Controller. The Controller shall withhold the amount so reported for each district and shall, acting on behalf of each district, transfer the appropriate amount from Section B of the State School Fund to the Public Works Board for the purpose of payment of the debt service obligation for the bonds sold to finance the projects.

SEC. 14. Section 6 of Chapter 565 of the Statutes of 1983 is repealed.

SEC. 15. Section 7 of Chapter 565 of the Statutes of 1983 is repealed.

SEC. 16. (a) Notwithstanding any provision of the Education Code, the Government Code, or the Public Contract Code, the Kern Community College District may, by direct negotiations or through a brokered agreement, dispose of the Weill Center site in Bakersfield, California, in accordance with the following conditions:

(1) The amount of the contract for sale shall equal or exceed a current appraisal of the value of the property.

(2) Escrow shall close no later than January 1, 1996.

(b) The use of the net proceeds of the sale shall be restricted to capital projects or deferred maintenance projects.

SEC. 17. Due to the unique circumstances concerning the Kern Community College District, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

SEC. 18. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 19. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide for timely funding of community colleges during the first year of implementation of program-based funding, it is necessary that this act take effect immediately.

CHAPTER 1039

An act to amend Sections 18802.9, 18805, 18806.1, 18815, and 26131 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor October 14, 1991 Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 18802.9 of the Revenue and Taxation Code is amended to read:

18802.9. (a) The head of every state agency (as defined by Section 11000 of the Government Code) entering into any contract shall make a return (at the time and in the form the Franchise Tax Board may by regulation prescribe) setting forth all of the following:

(1) The name, address, type of business entity, and taxpayer identification number of each person with which that agency entered into a contract during the calendar year.

(2) Any other information the Franchise Tax Board may require.

(b) As required by the Franchise Tax Board, this section also shall apply to any of the following:

(1) Licenses granted by state agencies.

(2) Subcontracts under contracts to which subdivision (a) applies.

(c) This section shall not apply to contracts or licenses in any class which are below a minimum amount or value which may be determined by the Franchise Tax Board for that class.

SEC. 2. Section 18805 of the Revenue and Taxation Code is amended to read:

18805. (a) The Franchise Tax Board may, by regulation require any person, in whatever capacity acting (including lessees or mortgagors of real or personal property, fiduciaries, employers, and any officer or department of the state or any political subdivision or agency of the state, or any city organized under a freeholder's charter, or any political body not a subdivision or agency of the state) having the control, receipt, custody, disposal, or payment of items of income specified in subdivision (b), to withhold an amount, determined by the Franchise Tax Board to reasonably represent the amount of tax due when such items of income are included with other income of the taxpayer, and to transmit the amount withheld to the Franchise Tax Board at such time as it may designate.

(b) The items of income referred to in subdivision (a) are interest, dividends, rent, prizes and winnings, premiums, annuities, emoluments, compensation for services, partnership income or gains, and other fixed or determinable annual or periodical gains, profits and income.

(c) The Franchise Tax Board may authorize the tax under subdivision (a) to be deducted and withheld from the interest upon any securities the owners of which are not known to the withholding

agent.

(d) (1) In the case of any disposition of a California real property interest by a person (but not a partnership as determined in accordance with Subchapter K of Chapter 1 of Subtitle A of the Internal Revenue Code), when the return required to be filed with the Secretary of the Treasury under Section 6045(e) of the Internal Revenue Code indicates, or the authorization for the disbursement of the transaction's funds instructs, that the funds be disbursed either to a transferor with a last known street address outside the boundaries of this state at the time of the transfer of the title to the California real property or to the financial intermediary of the transferor, the transferee shall be required to withhold an amount equal to 3⅓ percent of the sales price of the California real property conveyed.

(A) Notwithstanding any other provision of this subdivision, all of the following shall apply:

(i) No transferee shall be required to withhold any amount under this subdivision if the sales price of the California real property conveyed does not exceed one hundred thousand dollars ($100,000).

(ii) No transferee shall be required to withhold any amount under this subdivision unless written notification of the withholding requirements of this subdivision is provided by the real estate escrow person.

(iii) No transferee shall be required to withhold any amount under this subdivision, if the transferee, in good faith and based on all the information of which he or she has knowledge, relies on a written certificate executed by the transferor, certifying under penalty of perjury, either of the following:

(I) That the transferor is a resident of California.

(II) That the California real property being conveyed is the principal residence of the transferor, within the meaning of Section 1034 of the Internal Revenue Code.

(2) (A) At the request of the transferor, the Franchise Tax Board may authorize that a reduced amount or no amount be withheld under this subdivision if the Franchise Tax Board determines that to substitute a reduced amount or no amount shall not jeopardize the collection of tax imposed by this part. If the transferor provides documentation sufficient for the Franchise Tax Board to determine the actual gain required to be recognized on the transaction, the Franchise Tax Board may authorize a reduced amount based on the amount of the gain, as determined which will result in a sum which is substantially equivalent to the amount of tax reasonably estimated to be due under this part from the inclusion of the gain in the gross income of the transferor.

(B) Within 45 days after receiving a request that a reduced amount or no amount be withheld, the Franchise Tax Board shall either authorize a reduced amount or no amount, or deny the request.

(C) In the case where the parties to the transaction are requesting

that a reduced amount or no amount be withheld and the response by the Franchise Tax Board to the request has not been received at the time title to the California real property is transferred, the parties may direct the real estate escrow person to hold in trust for 45 days the amount required to be withheld under this subdivision. The parties shall instruct the real estate escrow person that at the end of 45 days the real estate escrow person shall remit the amount withheld to the Franchise Tax Board in accordance with this section, unless the Franchise Tax Board has authorized that a reduced amount or no amount be withheld.

(3) Amounts withheld and payments made in accordance with this subdivision shall be reported and remitted to the Franchise Tax Board in the form and at the time as the Franchise Tax Board shall determine.

(4) "California real property interest" means an interest in real property located in California and defined in Section 897(c)(1)(A)(i) of the Internal Revenue Code.

(5) For purposes of this subdivision, "financial intermediary" means an agent for the purpose of receiving and transferring funds to a principal.

(6) For purposes of this subdivision, "real estate escrow person" means any of the following persons involved in a real estate transaction:

(A) The person (including any attorney, escrow company, or title company) responsible for closing the transaction.

(B) If no other person described in subparagraph (A) is responsible for closing the transaction, then any other person who receives and disburses the consideration or value for the interest or property conveyed.

(7) (A) Unless the real estate escrow person provides "assistance," it shall be unlawful for any real estate escrow person to charge any customer for complying with the requirements of this subdivision.

(B) For purposes of this paragraph, "assistance" includes, but is not limited to, helping the parties clarify with the Franchise Tax Board the issue of whether withholding is required under this subdivision, helping the parties request that the Franchise Tax Board authorize a reduced amount or no amount be withheld under this subdivision, or, upon request of the parties, withholding an amount under this subdivision and remitting the amount to the Franchise Tax Board.

(C) For purposes of this paragraph, "assistance" does not include providing the written notification of the withholding requirements of this subdivision, or, providing the certification that the transferor is a resident of California or that the California real property being conveyed is the transferor's principal residence.

(D) In a case where the real estate escrow person provides "assistance" in complying with the withholding requirements of this subdivision, it shall be unlawful for the real estate escrow person to

charge any customer a fee that exceeds forty-five dollars ($45).

(8) For purposes of this subdivision, "sales price" means the sum of all of the following:

(A) The cash paid, or to be paid. The term "cash paid, or to be paid" does not include stated or unstated interest or original issue discount (as determined by Sections 1271 to 1275, inclusive, of the Internal Revenue Code).

(B) The fair market value of other property transferred, or to be transferred.

(C) The outstanding amount of any liability assumed by the transferee or to which the California real property interest is subject immediately before and after the transfer.

(e) This section shall become operative on January 1, 1991.

SEC. 3. Section 18806.1 of the Revenue and Taxation Code is amended to read:

18806.1. (a) The Franchise Tax Board shall implement a pilot project of withholding on payments to independent contractors doing business with state agencies. The purpose of the pilot project is to withhold income taxes on payments to independent contractors in a manner similar to current withholding on wages.

(b) The Franchise Tax Board may require the Controller or any officer or department of the state or any agency of the state to withhold an amount, as prescribed in subdivision (c), on all payments made pursuant to a contract between the state and any person other than a corporation, for which the primary purpose is the providing of personal services to the state and for which the total price of the contract exceeds six hundred dollars ($600). For purposes of this section, "personal services" does not include services rendered as part of a construction contract. The amount withheld shall be transmitted to the Franchise Tax Board at such time and in such a manner as the Franchise Tax Board may require.

(c) The amount to be withheld shall be 1 percent of each payment under the contract. That percentage is deemed to take into account the trade or business expenses allowable under this part. In lieu of this, the contractor may elect that the amount to be withheld be 3 percent of each payment under the contract less a reasonable allowance for trade or business expenses allowable under this part. The contractor shall demonstrate the reasonableness of the allowance for trade or business expenses to the Franchise Tax Board in such a manner as the Franchise Tax Board may require.

(d) The Franchise Tax Board shall report to the Legislature on or before January 31, 1991, on all of the following:

(1) The effect of this project on compliance and enforcement activities in this state.

(2) Whether the amounts withheld are substantially equivalent to the amounts due under this part resulting from contract payments.

(3) The administrative feasibility of withholding on payments to independent contractors in a manner similar to withholding on wages.

(e) The Franchise Tax Board shall develop and publish forms and procedures for reporting and remitting payments made and taxes withheld under this section.

(f) This section shall remain in effect only until January 1, 1995, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1995, deletes or extends that date.

SEC. 4. Section 18815 of the Revenue and Taxation Code is amended to read:

18815. (a) Every person required to deduct and withhold any tax is hereby made liable for such tax, to the extent provided by this section and, insofar as they are not inconsistent with the provisions of this article, all the provisions of this part relating to penalties, interest, assessment, and collections shall apply to persons subject to the provisions of this part, and for these purposes any amount required to be deducted and paid to the Franchise Tax Board under Section 18805 or 18807 shall be considered the tax of the person. Any person who fails to withhold from any payments any amount required to be withheld under Section 18805 or 18807 is liable for the amount withheld or the amount of taxes due from the taxpayer to whom the payments are made but not in excess of the amount required to be withheld, whichever is more, unless it is shown that the failure to withhold is due to reasonable cause.

(b) If any amount required to be withheld under Section 18805 or 18807 is not paid to the Franchise Tax Board on or before the due date required by regulations, interest shall be assessed at the adjusted annual rate established pursuant to Section 19269, computed from the due date to the date paid.

(c) Whenever any person has withheld any amount pursuant to this article, the amount so withheld shall be held in trust for the State of California.

(d) In lieu of the amount provided for in subdivision (a), unless it is shown that the failure to withhold is due to reasonable cause, whenever any transferee is required to withhold any amount pursuant to subdivision (d) of Section 18805, the transferee is liable for the greater of the following amounts for failure to withhold only after the transferee, as specified, is notified in writing of the requirements under subdivision (d) of Section 18805:

(1) Five hundred dollars ($500).

(2) Ten percent of the amount required to be withheld under subdivision (d) of Section 18805.

(e) (1) Unless it is shown that the failure to notify is due to reasonable cause, the real estate escrow person shall be liable for the amount specified in subdivision (d), when written notification of the withholding requirements of subdivision (d) of Section 18805 is not provided to the transferee and the California real property disposition is subject to withholding under subdivision (d) of Section 18805.

(2) The real estate escrow person shall provide written notification to the transferee in substantially the same form as

follows:

"In accordance with Sections 18805 and 26131 of the Revenue and Taxation Code, a buyer may be required to withhold an amount equal to 3⅓ percent of the sales price in the case of a disposition of California real property interest by either:

1. A seller who is an individual with a last known street address outside of California or when the disbursement instructions authorize the proceeds be sent to a financial intermediary of the seller, OR

2. A corporate seller which has no permanent place of business in California.

The buyer may become subject to penalty for failure to withhold an amount equal to the lesser of 25 percent of the amount required to be withheld or five hundred dollars ($500).

However, notwithstanding any other provision included in the California statutes referenced above, no buyer will be required to withhold any amount or be subject to penalty for failure to withhold if:

1. The sales price of the California real property conveyed does not exceed one hundred thousand dollars ($100,000), OR

2. The seller executes a written certificate, under the penalty of perjury, certifying that the seller is a resident of California, or if a corporation, has a permanent place of business in California, OR

3. The seller, who is an individual, executes a written certificate, under the penalty of perjury, that the California real property being conveyed is the seller's principal residence (as defined in Section 1034 of the Internal Revenue Code).

The seller is subject to penalty for knowingly filing a fraudulent certificate for the purpose of avoiding the withholding requirement.

The California statutes referenced above include provisions which authorize the Franchise Tax Board to grant reduced withholding and waivers from withholding on a case-by-case basis."

(3) The real estate escrow person shall not be liable under this subdivision, if the tax due as a result of the disposition of California real property is paid by the original or extended due date of the transferor's return for the taxable or income year in which the disposition occurred.

(4) The real estate escrow person and the transferee shall not be liable under subdivisions (c) and (d), if the failure to withhold is the result of the real estate escrow person's reliance, based on good faith and on all the information of which he or she has knowledge, upon a written certificate executed by the transferor under penalty of perjury that the transferor is a resident of California.

(5) The real estate escrow person and the transferee shall not be liable under subdivisions (d) and (e), if the failure to withhold is the result of the real estate escrow person's reliance, based on good faith and on all the information of which he or she has knowledge, upon

a written certificate executed by the transferor under penalty of perjury that the California real property being conveyed is the personal residence of the transferor, within the meaning of Section 1034 of the Internal Revenue Code.

(6) Any transferor who for the purpose of avoiding the withholding requirements of subdivision (d) of Section 18805 knowingly executes a false certificate pursuant to this subdivision shall be liable for twice the amount specified in subdivision (c).

(7) Unless the failure to notify is due to willful disregard of the withholding requirements of subdivision (d) of Section 18805, the real estate escrow person shall not be liable under this subdivision if the disposition of California real property occurs prior to July 1, 1991.

(f) The amount of tax required to be deducted and withheld under Section 18805 or 18807 shall be assessed, collected, and paid in the same manner and subject to the same provisions and limitations (including penalties) as are applicable with respect to the taxes imposed by this part.

(g) This section shall become operative on January 1, 1991.

SEC. 5. Section 26131 of the Revenue and Taxation Code is amended to read:

26131. (a) The Franchise Tax Board may, by regulation, require any bank, corporation or person, in whatever capacity acting (including lessees or mortgagors of real or personal property, fiduciaries, employers, and any officer or department of the state or any political subdivision or agency of the state, or any city organized under a freeholder's charter, or any political body not a subdivision or agency of the state) having the control, receipt, custody, disposal, or payment of items of income specified in subdivision (b), to withhold an amount, determined by the Franchise Tax Board to reasonably represent the amount of tax due, when such items of income are included with other income of the taxpayer, and to transmit the amount withheld to the Franchise Tax Board at such time as it may designate.

(b) The items of income referred to in subdivision (a) are interest, dividends, rent, prizes and winnings, premiums, annuities, emoluments, partnership income and gains, compensation for services, including bonuses, and other fixed or determinable annual or periodical gains, profits and income.

(c) The Franchise Tax Board may authorize the tax under subdivision (a) to be deducted and withheld from the interest upon any securities the owners of which are not known to the withholding agent.

(d) Any bank or person failing to withhold from any payments any amounts required by subdivision (a) to be withheld is liable for the amount withheld or the amount of taxes due from the person to whom the payments are made to an extent not in excess of the amounts required to be withheld, whichever is greater, unless it is shown that the failure is due to reasonable cause.

(e) (1) In the case of any disposition of a California real property

interest by a corporation, the transferee shall be required to withhold an amount equal to 3⅓ percent of the sales price of the California real property conveyed, if the corporation immediately after the transfer of the title to the California real property has no permanent place of business in California. For purposes of this subdivision, a corporation has no permanent place of business in California if all of the following apply:

(A) It is not organized and existing under the laws of California.

(B) It does not qualify with the office of the Secretary of State to transact business in California.

(C) It does not maintain and staff a permanent office in California.

(2) (A) No transferee shall be required to withhold any amount under this subdivision if the sales price of the California real property conveyed does not exceed one hundred thousand dollars ($100,000).

(B) No transferee shall be required to withhold any amount under this subdivision unless written notification of the withholding requirements of this subdivision is provided.

(C) No transferee shall be required to withhold under this subdivision when the transferor is a bank acting as trustee other than a trustee of a deed of trust.

(D) No transferee shall be required to withhold under this subdivision when the transferee is a bank or corporate beneficiary under a mortgage or beneficiary under a deed of trust and the California real property is acquired in judicial or nonjudicial foreclosure or by deed in lieu of foreclosure.

(E) No transferee shall be required to withhold any amount under this subdivision, if the transferee, in good faith and based on all the information of which he or she has knowledge, relies on a written certificate executed by the transferor certifying under penalty of perjury, that the corporation has a permanent place of business in California.

(3) (A) At the request of the transferor, the Franchise Tax Board may authorize that a reduced amount or no amount be withheld under this subdivision if the Franchise Tax Board determines that to substitute a reduced amount or no amount shall not jeopardize the collection of tax imposed by this part. If the transferor provides documentation sufficient for the Franchise Tax Board to determine the actual gain required to be recognized on the transaction, the Franchise Tax Board may authorize a reduced amount based on the amount of the gain, as determined, that shall result in a sum that is substantially equivalent to the amount of tax reasonably estimated to be due under this part from the inclusion of the gain in the gross income of the transferor.

(B) Within 45 days after receiving a request that a reduced amount or no amount be withheld, the Franchise Tax Board shall either authorize a reduced amount or no amount, or deny the request.

(C) In the case where the parties to the transaction have not

requested that a reduced amount or no amount be withheld or the response by the Franchise Tax Board to the request has not been received at the time title to the California real property is transferred, the parties may direct the real estate escrow person to hold in trust for 45 days the amount required to be withheld under this subdivision. The parties shall instruct the real estate escrow person that at the end of 45 days the real estate escrow person shall remit the amount withheld to the Franchise Tax Board in accordance with this subdivision, unless the Franchise Tax Board has authorized that a reduced amount or no amount be withheld.

(4) Amounts withheld and payments made in accordance with this subdivision shall be reported and remitted to the Franchise Tax Board in the form and at the time as the Franchise Tax Board shall determine.

(5) "California real property interest" means an interest in real property located in California and defined in Section 897(c)(1)(A)(i) of the Internal Revenue Code.

(6) For purposes of this subdivision, "real estate escrow person" means any of the following persons involved in the real estate transaction:

(A) The person (including any attorney, escrow company, or title company) responsible for closing the transaction.

(B) If no other person described in subparagraph (A) is responsible for closing the transaction, then any other person who receives and disburses the consideration or value for the interest or property conveyed.

(7) (A) Unless the real estate escrow person provides "assistance," it shall be unlawful for any real estate escrow person to charge any customer for complying with the requirements of this subdivision.

(B) For purposes of this paragraph, "assistance" includes, but is not limited to, helping the parties clarify with the Franchise Tax Board the issue of whether withholding is required under this subdivision, helping the parties request that the Franchise Tax Board authorize a reduced amount or no amount be withheld under this subdivision, or, upon request of the parties, withholding an amount under this subdivision and remitting the amount to the Franchise Tax Board.

(C) For purposes of this paragraph, "assistance" does not include providing the written notification of the withholding requirements of this subdivision, or, providing the certification that the transferor has a permanent place of business in California.

(D) In a case where the real estate escrow person provides "assistance" in complying with the withholding requirements of this subdivision, it shall be unlawful for the real estate escrow person to charge any customer a fee that exceeds forty-five dollars ($45).

(8) For purposes of this subdivision, "sales price" means the sum of all of the following:

(A) The cash paid, or to be paid. The term "cash paid, or to be

paid" does not include stated or unstated interest or original issue discount (as determined by Sections 1271 to 1275, inclusive, of the Internal Revenue Code).

(B) The fair market value of other property transferred, or to be transferred.

(C) The outstanding amount of any liability assumed by the transferee or to which the California real property interest is subject immediately before and after the transfer.

(9) In lieu of the amount provided for in subdivision (d), unless it is shown that the failure to withhold is due to reasonable cause, whenever any transferee is required to withhold any amount pursuant to this subdivision, the transferee is liable for the greater of the following amounts for failure to withhold, but only after the transferee is notified in writing of the requirements under this subdivision:

(A) Five hundred dollars ($500).

(B) Ten percent of the amount required to be withheld under this subdivision.

(10) (A) Unless it is shown that the failure to notify is due to reasonable cause, the real estate escrow person shall be liable for the amount specified in paragraph (9) when written notification of the withholding requirements of this subdivision is not provided to the transferee and the California real property disposition is subject to withholding under this subdivision.

(B) The real estate escrow person shall provide written notification to the transferee in substantially the same form as follows:

"In accordance with Sections 18805 and 26131 of the Revenue and Taxation Code, a buyer may be required to withhold an amount equal to 3⅓ percent of the sales price, in the case of a disposition of California real property interest by either:

1. A seller who is an individual with a last known street address outside of California or when the disbursement instructions authorize the proceeds be sent to a financial intermediary of the seller, OR

2. A corporate seller which has no permanent place of business in California.

The buyer may become subject to penalty for failure to withhold an amount equal to the lesser of 25 percent of the amount required to be withheld or five hundred dollars ($500).

However, notwithstanding any other provision included in the California statutes referenced above, no buyer will be required to withhold any amount or be subject to penalty for failure to withhold if:

1. The sales price of the California real property conveyed does not exceed one hundred thousand dollars ($100,000), OR

2. The seller executes a written certificate, under the penalty of perjury, certifying that the seller is a resident of California, or if a

corporation, has a permanent place of business in California, OR

3. The seller, who is an individual, executes a written certificate, under the penalty of perjury, that the California real property being conveyed is the seller's principal residence (as defined in Section 1034 of the Internal Revenue Code).

The seller is subject to penalty for knowingly filing a fraudulent certificate for the purpose of avoiding the withholding requirement.

The California statutes referenced above include provisions which authorize the Franchise Tax Board to grant reduced withholding and waivers from withholding on a case-by-case basis."

(C) The real estate escrow person shall not be liable under this subdivision, if the tax due as a result of the disposition of the California real property is paid by the original or extended due date of the transferor's return for the taxable or income year in which the disposition occurred.

(D) The real estate escrow person and the transferee shall not be liable under paragraphs (9) and (10), if the failure to withhold is the result of the real estate escrow person's reliance, based on good faith and on all the information of which he or she has knowledge, upon a written certificate executed by the transferor under penalty of perjury that the transferor has a permanent place of business in California.

(E) Unless the failure to notify is due to willful disregard of the withholding requirements of this subdivision, the real estate escrow person shall not be liable under this paragraph if the disposition of California real property occurs prior to July 1, 1991.

(f) Whenever any person has withheld any amount pursuant to this section, the amount so withheld shall be held in trust for the State of California. The amount withheld shall be assessed, collected, and paid in the same manner and subject to the same provisions and limitations (including penalties) as are applicable with respect to the taxes imposed by this part.

(g) This section shall become operative on January 1, 1991.

CHAPTER 1040

An act to amend Sections 34, 125, 132, 135, 137, 140, 824, 1661, 1704, 1730.5, 1749, 1749.1, 1749.3, 1749.4, 1749.5, and 1749.8 of, and to add Sections 33.5, 1749.9, and 1751.1 to, the Insurance Code, relating to insurance, and making an appropriation therefor.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 33.5 is added to the Insurance Code, to read:

33.5. "Fire and casualty broker-agent" means a person licensed pursuant to Section 1625.

SEC. 2. Section 34 of the Insurance Code is amended to read:

34. "Insurance solicitor" means a natural person employed to aid a fire and casualty broker-agent acting as an insurance agent or insurance broker in transacting insurance other than life.

SEC. 3. Section 125 of the Insurance Code is amended to read:

125. This chapter shall be known and may be cited as the California Risk Retention Act of 1991.

SEC. 4. Section 132 of the Insurance Code is amended to read:

132. Risk retention groups chartered, incorporated, or licensed in states other than this state and seeking to do business as a risk retention group in this state shall file a notice of operation with the commissioner of its intention to do business in this state. The notice shall be filed with the commissioner within 60 days of the filing by the group of any notice filed with its chartering state of its intention to do business in this state, but in no event shall a notice of intended operation be filed with the commissioner less than 60 days prior to the group commencing business in this state. In doing business in this state the risk retention group shall observe and abide by the laws of this state including the following:

(a) A risk retention group shall submit to the commissioner all of the following:

(1) A statement identifying the state or states in which the risk retention group is chartered and licensed as a liability insurance company, date of chartering, its principal place of business, and such other information, including information on its membership, as the commissioner of this state may require to verify that the risk retention group is qualified under subdivision (m) of Section 130.

(2) A copy of its plan of operations or a feasibility study and revisions of the plan or study submitted to the state in which the risk retention group is chartered and licensed. However, the provision relating to the submission of a plan of operation or a feasibility study shall not apply with respect to any line or classification of liability insurance which (A) was defined in the Product Liability Risk Retention Act of 1981 before October 27, 1986, and (B) was offered before that date by any risk retention group which had been chartered and operating for not less than three years before that date.

(3) A statement of registration which designates the commissioner as its agent for the purpose of receiving service of legal documents or process.

(4) A registration filing fee shall accompany the statement of registration, which shall be deposited in the Risk Retention Administration Account, which is hereby created within the Insurance Fund. Notwithstanding Section 13340 of the Government

Code, moneys in the account are continuously appropriated to the department for purposes of this chapter.

(b) Any risk retention group within this state shall submit to the commissioner all of the following:

(1) Upon commencement of business within this state and annually thereafter, a copy of the group's annual financial statement submitted to the state in which the risk retention group is chartered and licensed which shall be certified by an independent public accountant and contain a statement of opinion on loss and loss adjustment expense reserves made by a member of the American Academy of Actuaries or a qualified loss reserve specialist.

(2) Upon request by the commissioner, a copy of each examination of the risk retention group as certified by the commissioner or public official conducting the examination and all documentation received as part of the examination.

(3) Upon request by the commissioner, a copy of any outside audit performed with respect to the risk retention group.

(c) (1) As authorized under the federal Liability Risk Retention Act of 1986 (15 U.S.C. Sec. 3902 (a) (1) (B)), each risk retention group shall be liable for the payment of premium taxes and taxes on premiums for business done or located within this state, and shall report to the commissioner the net premiums written on business done within this state. The risk retention group shall be subject to taxation, and any applicable fines and nonconformance fees related thereto, on the same basis as a foreign admitted insurer. Nonconformance fees shall be paid to the department and deposited in the Risk Retention Administration Account within the Insurance Fund.

(2) To the extent licensed surplus line brokers are utilized pursuant to Chapter 6 (commencing with Section 1760) of Part 2, they shall report to the commissioner the premiums for direct business for risks resident or located within this state which those licensees have placed with or on behalf of, a risk retention group not chartered in this state.

(d) Any risk retention group, its agents and representatives shall comply with Article 6.5 (commencing with Section 790) of Chapter 1 of Part 2.

(e) Any risk retention group shall comply with the laws of this state regarding deceptive, false, or fraudulent acts or practices. However, if the commissioner seeks an injunction regarding that conduct, the injunction shall be obtained from a court of competent jurisdiction.

(f) Any risk retention group shall submit to an examination upon request by the commissioner to determine its financial condition if the commissioner of the jurisdiction in which the group is chartered and licensed has not initiated an examination or does not initiate an examination within 60 days after a request by the commissioner of this state.

(g) Every application form for insurance from a risk retention

group and every policy issued by a risk retention group shall contain in 10-point type on the front page and the declaration page, the following notice:

"NOTICE

This policy is issued by your risk retention group. Your risk retention group may not be subject to all of the insurance laws and regulations of your state. State insurance insolvency guaranty funds are not available for your risk retention group."

(h) The following acts by a risk retention group are hereby prohibited:

(1) The solicitation or sale of insurance by a risk retention group to any person who is not eligible for membership in that group.

(2) The solicitation or sale of insurance by, or operation of, a risk retention group that is in a hazardous financial condition.

(i) No risk retention group may offer insurance policy coverage prohibited by Section 533 or declared unlawful by the Supreme Court of California.

SEC. 5. Section 135 of the Insurance Code is amended to read:

135. (a) No purchasing group may offer insurance policy coverage prohibited by Section 533.5 or declared invalid by the Supreme Court of California.

(b) A purchasing group which obtains liability insurance from an insurer not admitted in this state or a risk retention group shall inform each of the members of the group which have a risk resident or located in this state all of the following:

(1) The risk is not protected by an insurance insolvency guaranty fund in this state.

(2) The risk retention group or such insurer may not be subject to all insurance laws and regulations of this state.

SEC. 6. Section 137 of the Insurance Code is amended to read:

137. (a) No person, firm, association, or corporation shall act or aid in any manner in soliciting, negotiating, or procuring liability insurance in this state from a risk retention group unless that person, firm, association, or corporation is licensed as a fire and casualty broker-agent in accordance with Chapter 5 (commencing with Section 1621) of Part 2 and is authorized to act as an insurance broker; except salaried employees or officers of a risk retention group, provided no part of the compensation of such person is on a commission basis or otherwise based on production of business.

(b) No person, firm, association, or corporation shall act or aid in any manner in soliciting, negotiating, or procuring liability insurance from an insurer not authorized to do business in this state on behalf of a purchasing group located in this state unless that person, firm, association, or corporation is licensed as a surplus line broker in accordance with Chapter 6 (commencing with Section 1760) of Part 2. A nonresident person may be licensed as a surplus lines broker for purposes of placing insurance on behalf of a purchasing group.

(c) Any person, firm, association, or corporation licensed pursuant to Chapter 5 (commencing with Section 1621) of Part 2, on business placed with risk retention groups or written through a purchasing group, shall inform each prospective insured of the provisions of the notice required by subdivision (g) of Section 132 in the case of a risk retention group and subdivision (b) of Section 135 in the case of a purchasing group.

SEC. 7. Section 140 of the Insurance Code is amended to read:

140. The commissioner may order a purchasing group or risk retention group to cease and desist from the solicitation or sale of insurance by, or the operations of, a risk retention group or purchasing group whose officers, organizers, or directors have engaged in any of the acts or omissions set forth in subdivision (a) of Section 1668.5. That order shall be made in accordance with the procedures set forth in Article 14.5 (commencing with Section 1065.1) of Chapter 1 of Part 2.

SEC. 7.5. Section 824 of the Insurance Code is amended to read:

824. "Broker" means every person, other than an agent, who in this state engages either wholly or in part in the business of (a) dealing in any security issued by others, (b) underwriting any issue of such securities, (c) purchasing such securities with the purpose of reselling them, or (d) offering such securities for sale to the public. No authority to act as a broker may be implied from an appointment executed by an insurer appointing an agent of that insurer.

SEC. 8. Section 1661 of the Insurance Code is amended to read:

1661. Whenever an organization licensed as a life agent, or a fire and casualty broker-agent desires to change, remove, or add to, the natural person or persons who are to transact insurance under authority of its license, it shall immediately file an application or notice on a form prescribed by the commissioner with the commissioner for an endorsement changing its license accordingly. The commissioner shall require that the prelicensing education standards set forth in Section 1749 be met and that the qualifying examination provided by this code be taken by any natural person named by the organization to exercise its agency or brokerage powers who would be required to take and pass the qualifying examination. That natural person or persons and the organization are in all other respects subject to the provisions of this chapter and the insurance laws.

SEC. 9. Section 1704 of the Insurance Code is amended to read:

1704. (a) Every applicant for a license as a life agent, a fire and casualty broker-agent to act as an insurance agent, or a travel insurance agent shall have filed on his or her behalf with the commissioner a notice of appointment to act as an agent executed by an insurer, or its authorized representative, admitted to transact one or more classes of insurance included within the scope of the license sought, appointing the applicant, upon licensing, its agent within this state. Every applicant for a license as a fire and casualty broker-agent to act as an insurance solicitor shall have filed on his or her behalf

with the commissioner a notice executed by a fire and casualty broker-agent agreeing to employ the applicant and appointing the applicant, upon licensing, as the fire and casualty broker-agent's employee within this state. Additional notices of appointment may be filed by other insurers before the license is issued and thereafter as long as the license remains in force. The authority to transact insurance given to a licensee by an insurer or fire and casualty broker-agent, as the case may be, by appointment shall be effective as of the date the notice of appointment is signed. That authority to transact shall apply to transactions occurring after that date and for the purpose of determining the insurer's or fire and casualty broker-agent's liability for acts of the appointed licensee. No notice of appointment of a life agent, fire and casualty broker-agent, or travel insurance agent shall be filed under this subdivision unless the licensee being appointed has consented to that filing. Each appointment made under this subdivision shall by its terms continue in force until:

(1) The cancellation or expiration of the license applied for or held at the time the appointment was filed.

(2) The filing of a notice of termination by the insurer or employing fire and casualty broker-agent, or by the appointed life agent, fire and casualty broker-agent, travel insurance agent, or insurance solicitor.

(b) Upon the termination of all appointments, or all endorsements naming the licensee on the license of an organization licensee, and the cancellation of the bond required pursuant to Section 1662 if acting as a broker, the permanent license shall not be canceled, but shall become inactive. It may be renewed pursuant to Section 1718. It may be reactivated at any time prior to its expiration by the filing of a new appointment pursuant to this section, Section 1707, and Section 1751.3, or the filing of a new bond pursuant to Section 1662. An inactive license shall not permit its holder to transact any insurance for which a valid, active license is required.

(c) Upon the termination of all appointments of a person licensed under a certificate of convenience, such certificate shall be canceled and shall be returned by its lawful custodian to the commissioner.

(d) A fire and casualty broker-agent appointing an insurance solicitor pursuant to this section, if a natural person, must be the holder of a permanent license to act as a fire and casualty broker-agent or the holder of a certificate of convenience so to act issued pursuant to either subdivision (a) or (b) of Section 1685. If the fire and casualty broker-agent is an organization, it must be the holder of a permanent license.

(e) The filing of an incomplete or deficient action notice with the department shall require the filing of an amended, complete action notice, together with the payment of the fee therefor specified in subdivision (n) of Section 1751.

(f) No notice of appointment appointing a solicitor shall be filed with the commissioner unless a notice of termination of appointment

has been filed with the commissioner for any previously filed notice of appointment of solicitor.

SEC. 10. Section 1730.5 of the Insurance Code is amended to read:

1730.5. A life agent and a fire and casualty broker-agent shall provide to all insureds or applicants at the time of application or receipt of premium moneys the effective date of coverage, if known, or the circumstances under which coverage will be effective if there exists conditions precedent to coverage. This section shall apply only to coverage for personal lines of insurance, such as private passenger automobile, homeowner and renter insurance, personal liability, and individual disability and health insurance.

SEC. 11. Section 1749 of the Insurance Code is amended to read:

1749. On and after January 1, 1992, the department shall require all new applicants for license as a fire and casualty broker-agent or as a life agent to meet prelicensing education standards as follows:

(a) Require a minimum of 40 hours of prelicensing classroom study as a prerequisite to qualification for a fire and casualty broker-agent license. The curriculum for satisfying this requirement shall be approved by the curriculum board and submitted to the commissioner for final approval. Any additions to the minimum requirements provided by this section shall be approved by the curriculum board pursuant to Section 1749.1 and certified by the department.

(b) Require a minimum of 40 hours of prelicensing classroom study as a prerequisite for qualification for a life agent license. The curriculum for satisfying this requirement shall be approved by the curriculum board and submitted to the commissioner for final approval. Any additions to the minimum requirements provided by this section shall be approved by the curriculum board pursuant to Section 1749.1 and certified by the department.

(c) In addition to the 40 hours prelicensing education required to qualify for a license as a broker-agent or life agent, the department shall require 12 hours of study on ethics and this code. Where an applicant seeks a license for both the broker-agent license and the life license, the applicant shall only be required to complete one 12-hour course on ethics and this code. The curriculum for satisfying this requirement shall be approved by the curriculum board and submitted to the commissioner for final approval.

(d) An applicant for a life agent license or a fire and casualty broker-agent license who is currently licensed as such in another state and who has completed 40 hours of prelicensing education as a requirement for licensing in that state shall be required to complete only the course of study on ethics and the Insurance Code, as required by Section 1749. Additionally, any applicant for such a license holding one or more of the designations specified in subdivisions (a) to (e), inclusive, of Section 1749.4 shall be exempted from any requirement for courses in general insurance that would otherwise be a condition of issuance of the license.

(e) This section shall not apply to persons licensed as of December 31, 1991.

SEC. 12. Section 1749.1 of the Insurance Code is amended to read:

1749.1. (a) The commissioner shall appoint a curriculum board consisting of representatives of insurance agents, brokers, and life agents trade associations and representatives of insurance companies and consumer groups to develop the prelicensing and continuing education curriculum, including a list of preapproved courses of study, including courses of study for professional designations which would satisfy the requirements of this article. The curriculum board shall develop or recommend courses of study covering all lines of insurance to be sold under each license including, but not limited to, any special products such as long-term care insurance, Medi-gap policies, disability insurance products, and course study on ethics and pertinent sections of this code. The curriculum developed and the courses of study approved by the board shall be submitted to the commissioner for final approval.

(b) The curriculum board shall also develop standards for providers and instructors of prelicensing and continuing education courses, programs, and seminars, which standards shall be approved by the board and submitted to the commissioner for final approval.

(c) Whenever the commissioner has reasonable cause to believe, and determines after public hearing, that any approved course, program of instruction, or seminar is being conducted so as to fail to meet the commissioner's prelicensing or continuing education curriculum, or any provider or instructor for any such course, program, or seminar has failed to comply with the commissioner's standards, the commissioner may make and serve upon the provider or instructor of that course, program, or seminar such order or orders rescinding approval for that course, program, or seminar. No credit towards meeting the requirements of this article shall be granted any applicant or licensee for completion of a course, program, or seminar after the effective date of any order rescinding approval for that course, program, or seminar. The commissioner shall serve notice of hearing required by this section upon the provider or instructor of the course, program, or seminar, stating the time and place therefor, and the grounds upon which his or her order is made. The hearing shall occur not less than 30 nor more than 60 days after notice is served.

SEC. 13. Section 1749.3 of the Insurance Code is amended to read:

1749.3. An individual licensed as either a life agent or a fire and casualty broker-agent, but not as both, shall annually complete those courses, programs of instruction, or seminars approved by the commissioner for the type of license held. The minimum number of classroom hours required is as follows:

(a) During each of the first four 12-month periods following the date of its original issue satisfactorily complete courses or programs

of instruction or attend seminars equivalent to a minimum of 25 classroom hours of instruction, with a maximum of 100 accumulated classroom hours for the 48-month period.

(b) Any licensee who has held a license prior to the effective date of this section, or who has complied with subdivision (a), shall for each 12-month period satisfactorily complete courses or programs of instruction or attend seminars equivalent to 15 classroom hours of instruction.

(c) An individual whose license expires in 1992 shall not be required to comply with the requirements of subdivisions (a) and (b) until the next license renewal date.

(d) An individual licensed as both a fire and casualty broker-agent shall satisfy the requirements of this section by demonstrating completion of the courses, programs of instruction, or seminars approved by the commissioner for either license.

(e) Nothing in this section shall preclude an individual from taking courses, programs of instruction, or seminars approved by the commissioner and accumulating credits for completion thereof prior to the application of this section to the individual's license.

(f) A licensee who is employed by a licensed automobile dealer to offer only collision coverage, involuntary unemployment insurance, or credit life and disability insurance products shall not be required to meet the requirements of this section until the license renewal date next following December 31, 1993.

SEC. 14. Section 1749.4 of the Insurance Code is amended to read:

1749.4. The courses or programs of instruction successfully completed that shall be deemed to meet the standards for continuing educational requirements, and the number of classroom hours for which they are equivalent, are as follows:

(a) Any part of the Life Underwriter Training Council Life Course Curriculum totaling 50 hours, including the health course totaling 26 hours.

(b) Any part of the American College CLU diploma curriculum totaling 30 hours.

(c) Any part of the Insurance Institute of America's Accredited Advisor in Insurance (AAI) program totaling 25 hours.

(d) Any part of the American Institute of Property and Liability Underwriters' Chartered Property Casualty Underwriter (CPCU) professional designation program totaling 30 hours.

(e) Any part of the Certified Insurance Counselor program totaling 25 hours.

(f) Any insurance-related course approved by the curriculum board and the commissioner taught by an accredited college or university per credit hour granted totaling 15 hours.

(g) Any course or program of instruction or seminar developed or sponsored by an authorized insurer, recognized agents' association, or insurance trade association, or any independent program of instruction shall, if approved by the curriculum board and the

commissioner, qualify for the equivalency of the number of classroom hours assigned thereto by the curriculum board and the commissioner.

(h) Any correspondence course approved by the curriculum board and the commissioner shall qualify for the equivalency of the number of classroom hours assigned thereto by the commissioner.

SEC. 15. Section 1749.5 of the Insurance Code is amended to read:

1749.5. (a) A person teaching any approved course of instruction or lecturing at any approved seminar shall qualify for the same number of classroom hours as would be granted to a person taking and successfully completing that course, seminar, or program, except that such person shall qualify for those classroom hours only once each license term for each course, seminar, or program.

(b) Excess classroom hours accumulated during any one-year period may be carried forward to the next year.

(c) For good cause shown, the commissioner may grant an extension of time during which the requirements imposed by this article may be completed, but that extension of time shall not exceed the period of one year.

(d) Every person subject to this article shall furnish, in a form satisfactory to the commissioner, written certification as to the courses, programs, or seminars of instruction taken and successfully completed by that person.

SEC. 16. Section 1749.8 of the Insurance Code is amended to read:

1749.8. This article shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.

SEC. 17. Section 1749.9 is added to the Insurance Code, to read:

1749.9. Nothing in this article shall require any person exempted from licensure by Section 1634 or 1635 to hold a license as required by Section 1631.

SEC. 18. Section 1751.1 is added to the Insurance Code, to read:

1751.1. (a) The commissioner shall require fifty dollars ($50) in advance as a fee for filing an application for certification as a prelicensing or continuing education provider pursuant to Section 1749.1. That certification shall be effective for a period of 24 months.

(b) The commissioner shall require fifty dollars ($50) in advance as a fee for filing an application to renew certification as a prelicensing or continuing education provider pursuant to Section 1749.1. That certification shall be effective for a period of 24 months.

(c) The commissioner shall require fifty dollars ($50) in advance as a fee for filing an application for certification of a prelicensing education course pursuant to Section 1749. That certification shall be effective for a period of 24 months.

(d) The commissioner shall require twenty-five dollars ($25) in advance as a fee for filing an application to renew certification of a prelicensing education course pursuant to Section 1749. That

certification shall be effective for a period of 24 months.

(e) The commissioner shall require twenty-five dollars ($25) in advance as a fee for filing an application for certification of a continuing education course, program, or seminar pursuant to Section 1749.3. That certification shall be effective for a period of 24 months.

(f) The commissioner shall require ten dollars ($10) in advance as a fee for filing an application to renew certification of a continuing education course, program, or seminar pursuant to Section 1749.3. That certification shall be effective for a period of 24 months.

CHAPTER 1041

An act to add Sections 10232.3 and 10232.8 to the Insurance Code, relating to long-term care insurance.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 10232.3 is added to the Insurance Code, to read:

10232.3. (a) All applications for long-term care insurance policies or certificates except those that are guaranteed issue shall contain clear and unambiguous questions designed to ascertain the health condition of the applicant.

(b) (1) All applications for long-term care insurance shall contain a question that asks whether the applicant has had medication prescribed by a physician, and shall also ask the applicant to list the medication that has been prescribed.

(2) If the medications listed in the application were known by the insurer, or should have been known at the time of application, to be directly related to a medical condition for which coverage would otherwise be denied, then the policy or certificate shall not be rescinded for that condition.

(c) The following requirement applies except for policies or certificates which are guaranteed issue: Prior to issuance of a long-term care policy or certificate to an applicant age 80 or older, the insurer shall obtain one of the following:

(1) A report of a physical examination.

(2) An assessment of functional capacity.

(3) An attending physician's statement.

(4) Copies of medical records.

(d) A copy of the completed application or enrollment form whichever is applicable shall be delivered to the insured no later than at the time of delivery of the policy or certificate unless it was retained by the applicant at the time of application.

(e) Every insurer or other entity selling or issuing long-term care insurance benefits shall maintain a record of all policy or certificate recissions, both state and countrywide, except those that the insured voluntarily effectuated and shall annually furnish this information to the commissioner in the format prescribed by the National Association of Insurance Commissioners.

SEC. 2. Section 10232.8 is added to the Insurance Code, to read:

10232.8. (a) A long-term care insurance policy or certificate may not, if it provides benefits for home health care services, limit or exclude benefits in any of the following ways:

(1) By requiring that the insured or claimant would need skilled care in a skilled nursing facility if home health care services were not provided.

(2) By requiring that the insured or claimant first or simultaneously receive nursing or therapeutic services in a home or community setting before home health care services are covered.

(3) By limiting eligible services to services provided by registered nurses or licensed vocational nurses.

(4) By requiring that a nurse or therapist provide services covered by the policy that can be provided by a home health aide, or other licensed or certified home care worker acting within the scope of his or her licensure or certification.

(5) By requiring that the insured or claimant have an acute condition before home health care services are covered.

(6) By limiting benefits to services provided by Medicare-certified agencies or providers.

(b) Home health care coverage may be applied to the nonhome health care benefits provided in the policy or certificate when determining maximum coverage under the terms of the policy or certificate.

CHAPTER 1042

An act to add Section 3502.05 to the Elections Code, relating to ballot measures.

[Approved by Governor October 14, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 3502.05 is added to the Elections Code, to read:

3502.05. In the event that the Attorney General is a proponent of a proposed measure, the title and summary of the chief purpose and points of the proposed measure, including an estimate or opinion on the financial impact of the measure, shall be prepared by the Legislative Counsel, and the other duties of the Attorney General

specified in this chapter with respect to the title and summary and an estimate of the financial effect of the measure shall be performed by the Legislative Counsel.

CHAPTER 1043

An act to amend Sections 34019 and 34501.2 of, and to add Section 22406.5 to, the Vehicle Code, relating to vehicles.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 22406.5 is added to the Vehicle Code, to read:

22406.5. Any person who drives a tank vehicle subject to Division 14.7 (commencing with Section 34000) while transporting more than 500 gallons of flammable liquid at a speed greater than the applicable speed limit or in willful or wanton disregard for the safety of persons or property is, in addition to any other applicable penalty, subject to a fine of not less than five hundred dollars ($500) for a first offense and, for a second or subsequent offense within two years of a prior offense, to a fine of not less than two thousand dollars ($2,000) and a suspension of up to six months of a hazardous materials or cargo tank endorsement, or both.

SEC. 2. Section 34019 of the Vehicle Code is amended to read:

34019. (a) The commissioner shall adopt reasonable regulations with respect to the following:

(1) The design, construction, and structural safety of cargo tanks and fire auxiliary equipment.

(2) To the extent permitted by federal law, the stability of tank vehicles.

(b) For intrastate shipments in this state, the commissioner shall, as soon as feasible, incorporate any new United States Department of Transportation standards concerning interstate shipments.

SEC. 3. Section 34501.2 of the Vehicle Code is amended to read:

34501.2. (a) The regulations adopted pursuant to Section 34501, except as provided in this subdivision and subdivision (b), shall establish limitations on driving hours for motor vehicles subject thereto that are consistent with the hours-of-service requirements adopted by the United States Department of Transportation in Part 395 of Title 49 of the Code of Federal Regulations, as those regulations now exist or are hereafter amended. Driving hours and on-duty status shall not begin following less than eight consecutive hours off duty. Drivers' hours shall be regulated from the time a driver first reports for duty for any employer. A driver who accumulates eight hours off duty resting in a sleeper berth in not

more than two separate periods totaling at least eight hours, neither of which is less than two hours, is in compliance with the requirement for eight consecutive hours of off-duty time.

(b) The regulations adopted pursuant to Section 34501 shall establish the following exceptions to subdivision (a):

(1) A driver may be permitted or required to drive for more than the number of hours specified in subdivision (a) if the excess hours are due to snow, sleet, fog, or other adverse conditions of weather, road, or traffic. This extended driving period shall be permitted even though the adverse conditions were known before the trip began.

(2) In the event of a traffic accident, medical emergency, or disaster, a driver may complete the trip if the trip could reasonably have been completed under normal conditions within the time specified in subdivision (a).

(3) Other exceptions applicable to drivers assigned to governmental fire suppression and prevention, as determined appropriate by the Department of the California Highway Patrol.

(4) The maximum driving time within a work period is 10 hours for tank vehicles transporting more than 500 gallons of flammable liquid or 12 hours for all other vehicles engaged solely in intrastate commerce and is not transporting hazardous substances or hazardous wastes as defined by regulations of the United States Department of Transportation in Section 171.8 of Title 49 of the Code of Federal Regulations, as that section now exists or is hereafter amended.

SEC. 4. Section 34501.2 of the Vehicle Code is amended to read:

34501.2. (a) The regulations adopted pursuant to Section 34501, except as provided in this subdivision and subdivision (b), shall establish limitations on driving hours for motor vehicles subject thereto that are consistent with the hours-of-service requirements adopted by the United States Department of Transportation in Part 395 of Title 49 of the Code of Federal Regulations, as those regulations now exist or are hereafter amended. Driving hours and onduty status shall not begin following less than eight consecutive hours off duty. Drivers' hours shall be regulated from the time a driver first reports for duty for any employer. A driver who accumulates eight hours off duty resting in a sleeper berth in not more than two separate periods totaling at least eight hours, neither of which is less than two hours, is in compliance with the requirement for eight consecutive hours of offduty time.

(b) The regulations adopted pursuant to Section 34501 shall establish the following exceptions to subdivision (a):

(1) A driver may be permitted or required to drive for more than the number of hours specified in subdivision (a) if the excess hours are due to snow, sleet, fog, or other adverse conditions of weather, road, or traffic. This extended driving period shall be permitted even though the adverse conditions were known before the trip began.

(2) In the event of a traffic accident, medical emergency, or disaster, a driver may complete the trip if the trip could reasonably

have been completed under normal conditions within the time specified in subdivision (a).

(3) Other exceptions applicable to drivers assigned to governmental fire suppression and prevention, as determined appropriate by the Department of the California Highway Patrol.

(4) The maximum driving time within a work period is 10 hours for tank vehicles transporting more than 500 gallons of flammable liquid or 12 hours for all other vehicles engaged solely in intrastate commerce and is not transporting hazardous substances or hazardous wastes as defined by regulations of the United States Department of Transportation in Section 171.8 of Title 49 of the Code of Federal Regulations, as that section now exists or is hereafter amended.

(5) A driver employed by an electrical corporation as defined in Section 218 of the Public Utilities Code, a gas corporation as defined in Section 222 of that code, or a telephone corporation as defined in Section 234 of that code may be permitted or required to drive more than the number of hours specified in subdivision (a) while operating a public utility vehicle during the emergency restoration of public utility service.

SEC. 5. Section 4 of this bill incorporates amendments to Section 34501.2 of the Vehicle Code proposed by both this bill and AB 1886. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2) each bill amends Section 34501.2 of the Vehicle Code, and (3) this bill is enacted after AB 1886, in which case Section 34501.2 of the Vehicle Code, as amended by AB 1886, shall remain operative only until the operative date of this bill, at which time Section 4 of this bill shall become operative, and Section 3 of this bill shall not become operative.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1044

An act to add Section 6512.7 to the Health and Safety Code, relating to water.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 6512.7 is added to the Health and Safety Code, to read:

6512.7. (a) Notwithstanding Section 6512 and the Cortese-Knox Local Government Reorganization Act of 1985 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code), for the purpose of furnishing water in the district for any present or future beneficial use, the Montara Sanitary District may, pursuant to subdivision (b), exercise any of the powers of a county water district, including the power to acquire, operate, finance, and control water rights, works, property, rights and privileges useful or necessary to convey, supply, store or make use of water for any useful purpose, all in the same manner as county water districts formed under the County Water District Law (Division 12 (commencing with Section 30000) of the Water Code). The Montara Sanitary District shall otherwise continue to be governed in all respects as a sanitary district under this part, and the provisions of this section are intended only to vest additional powers in the district which the district may elect to exercise.

(b) If the governing body of the Montara Sanitary District determines, by resolution, entered in the minutes, that it is feasible, economically sound, and in the public interest for the district to exercise the powers specified in subdivision (a), the governing body shall submit to the electors of the district the question of whether the district should adopt those additional powers. The question submitted to the electors shall be in substantially the following form: "Shall the Montara Sanitary District exercise the powers of a county water district for the purpose of furnishing water in the district?" The district may exercise those powers only if a majority of the voters voting on the proposition vote in favor of the question. The costs of that election, including any additional costs incurred by the County of San Mateo for purposes of meeting legal requirements directly associated with the conduct of the election, shall be borne by the district.

(c) If the electors of the district authorize the district to exercise the powers specified in subdivision (a), the district shall include in any revenue plan developed as part of its exercise of those powers an item to reimburse the County of San Mateo the sum of one hundred eighteen thousand dollars ($118,000) for costs incurred with respect to its effort to acquire the existing water system serving the

Montara Sanitary District service area. Reimbursement to the county shall occur within 180 days after the district receives any revenues from the sale of bonds, the levy of assessments, or the receipt of any other revenues to be used by the district in the exercise of its powers pursuant to this section.

(d) If the Montara Sanitary District assumes authority to exercise the powers of a county water district pursuant to this section, thereafter the district shall be subject to the Cortese-Knox Local Government Reorganization Act of 1985 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code).

(e) In enacting this section it is the intent of the Legislature that any service by the Montara Sanitary District not affect the approval or development of a project that includes units for lower income persons, as defined in Section 50079.5, and persons and families of moderate income, as defined in Section 50093.

(f) Upon request of the governing body of the Montara Sanitary District, the County of San Mateo shall provide the district with all books, papers, records, documents and other information, including all writings as defined by Section 250 of the Evidence Code, resulting from, or produced by, the expenditure of funds by the county to determine if the acquisition of the existing water system serving the Montara Sanitary District service area is feasible.

SEC. 2. The provisions of Section 1 of this act are necessary because there is no other entity within the territory of the Montara Sanitary District which is willing and able to provide water service for the benefit of the people of the district, and it is necessary to ensure that the Montara Sanitary District is authorized to do any act necessary to furnish sufficient water in the district for any present or future beneficial use. This problem is not common to all districts formed under the Sanitary District Act of 1923. It is, therefore, hereby declared that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution and that the enactment of Section 6512.7 of the Health and Safety Code as a special law is necessary for the solution of problems existing in the Montara Sanitary District.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by certain provisions of this act.

Moreover, no reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for other costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

Notwithstanding Section 17580 of the Government Code, unless

otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1045

An act to amend Sections 74984, 74985, 74986, and 74987 of the Government Code, relating to courts.

[Approved by Governor October 14, 1991 Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 74984 of the Government Code is amended to read:

74984. (a) There shall be one marshal who shall be appointed by the court; provided, that upon the effective date of this section, the incumbent elected marshal shall continue in office as marshal and may be removed by the court only for cause. When that marshal leaves office, the succeeding marshals shall be appointed by and serve at the pleasure of the court.

(b) The marshal shall receive the salary of four thousand twenty-eight dollars ($4,028) per month as set forth in the standard salary resolution of Shasta County in effect for the 1990–91 fiscal year. The marshal shall be provided the same employment benefits by Shasta County as the county provides to other county employees in an equivalent category in the county's merit personnel system.

(c) The board of supervisors may transfer certain duties of the sheriff to the marshal pursuant to Section 26608.3.

(d) All fees collected by the marshal's office shall be deposited with the county treasurer and credited to the general fund.

SEC. 2. Section 74985 of the Government Code is amended to read:

74985. (a) The marshal, with the approval of the court, may appoint the following marshal's office employees whose numbers, classifications, and salary ranges in the standard salary resolution of Shasta County in effect on January 1, 1991, are:

Position Title	Number of Positions	Salary Range	
Marshal	1	Flat	$4,028 per mo.
Deputy Marshal	8	38 3 - Regular	$2,167–2,634 per mo.
		Flat - Probationary	$2,064 per mo
		Flat - Trainee	$1,966 per mo.
Legal Process Clerk II	4	29 6	$1,418–1,723 per mo
Legal Process Clerk I		27 6	$1,286–1,563 per mo.

Marshal's Civil Supervisor	1	32.6	$1,641–1,995 per mo
Marshal's Sergeant	2	40 8	$2,448–2,976 per mo.

(b) Each employee of the marshal's office shall be provided the same employment benefits by Shasta County as the county provides to other county employees in equivalent categories and salary ranges in the county's merit personnel system.

(c) With the consent of the court, not more than five reserve deputy marshals may be hired by the marshal on an extra help basis and as the business of the court requires. Reserve deputy marshals may receive as their sole compensation the base salary of a regular Deputy Marshal, calculated on an hourly basis, for each hour or fraction of an hour of service. Reserve deputy marshals shall not be entitled to any employment benefit provided by Shasta County to any other county officer or employee.

SEC. 3. Section 74986 of the Government Code is amended to read:

74986. (a) The municipal court may appoint a municipal court administrator who shall be the chief administrative officer and ex officio clerk of the court. The administrator shall serve at the pleasure of the court and shall receive a salary of four thousand forty-eight dollars ($4,048) per month as set forth in the standard salary resolution of Shasta County in effect for the 1990–91 fiscal year. The administrator shall be provided the same employment benefits by Shasta County as the county provides to other county employees in an equivalent category in the county's merit personnel system.

(b) The municipal court shall prescribe and regulate the duties and authority of the administrator.

SEC. 4. Section 74987 of the Government Code is amended to read:

74987. (a) The municipal court administrator, with the approval of the court, may appoint the court's support staff personnel. The following employees of the court shall be compensated within the following applicable ranges established by the standard salary resolution of Shasta County in effect on January 1, 1991:

Position Title	Number of Positions	Salary Range	
Court Administrator	1	Flat	$4,048 per mo.
Court Commissioner	1	Flat	$64,617 per year
Deputy Ct. Clerk III	7	31.1	$1,525–1,854 per mo.
Deputy Ct. Clerk II	22	30.1	$1,453–1,766 per mo.
or			
Deputy Ct. Clerk I		28.1	$1,318–1,601 per mo.

Deputy Ct. Clerk II or Deputy Ct. Clerk I	2(½ time)	30.1 28.1-6	$1,453–1,766 per mo. $1,318–1,601 per mo.
Legal Secretary	1	32.2	$1,609–1,956 per mo.
Sup. Branch Ct. Clerk	2	32.1	$1,601–1,947 per mo.
Sup. Mun. Ct. Clerk	1	33.1	$1,682–2,044 per mo.

(b) Each employee designated in subdivision (a) shall be provided the same employment benefits by Shasta County as the county provides to other county employees in equivalent categories and salary ranges in the county's merit personnel system.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1046

An act to amend Sections 11265.1, 14105.98, 14105.99, and 14163 of, and to add Sections 11265.5 and 18920 to, the Welfare and Institutions Code, relating to public assistance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 11265.1 of the Welfare and Institutions Code is amended to read:

11265.1. Except as provided in Section 11265.5, in addition to the requirement for the annual redetermination of eligibility, the department shall establish regulations consistent with federal law to implement a recipient monthly reporting system for use in determining monthly eligibility and the amount of the grant. The department shall define what constitutes a complete report and shall specify the deadlines for submitting a complete report, as well as the consequences of, and good cause for, failure to submit a complete report. The department shall adopt fair and equitable regulations implementing the monthly reporting requirement.

SEC. 2. Section 11265.5 is added to the Welfare and Institutions

Code, to read:

11265.5. (a) (1) The department may, subject to the requirements of federal regulations and Section 18204, conduct three pilot projects, to be located in the Counties of Los Angeles, Merced, and Santa Clara, upon approval of the department and the participating counties. The pilot projects shall test the reporting systems described in subparagraphs (A), (B), and (C) of paragraph (4).

(2) (A) The pilot project conducted in Los Angeles County shall test one or both reporting systems described in subparagraphs (A) and (B) of paragraph (4). The pilot project population for each test shall be limited to 10,000 cases.

(B) The pilot projects in the other counties shall test one of the reporting systems described in subparagraph (A) or (C) of paragraph (4) and shall be limited to 2,000 cases per project.

(3) (A) The pilot projects shall be designed and conducted according to standard scientific principles, and shall be in effect for a period of 24 months.

(B) The projects may be extended an additional year upon the approval of the department.

(C) The projects shall be designed to compare the monthly reporting system with alternatives described in paragraph (4) as to all of the following phenomena:

(i) Administrative savings resulting from reduced worker time spent in reviewing monthly reports.

(ii) The amount of cash assistance paid to families.

(iii) The rate of administrative errors in cases and payments.

(iv) The incidence of underpayments and overpayments and the costs to recipients and the administering agencies of making corrective payments and collecting overpayments.

(v) Rates at which recipients lose eligibility for brief periods due to failure to submit a monthly report but file new applications for aid and thereafter are returned to eligible status.

(vi) Cumulative benefits and costs to each level of government and to aid recipients resulting from each reporting system.

(vii) The incidence of, and ability to, prosecute fraud.

(viii) Ease of use by clients.

(ix) Case errors and potential sanction costs associated with those errors.

(4) The pilot projects shall adopt reporting systems providing for one or more of the following:

(A) A reporting system that requires families with no income or whose only income is comprised of old age, survivors, or disability insurance benefits administered pursuant to Subchapter 2 (commencing with Section 401) of Chapter 7 of Title 42 of the United States Code, and with no recent work history to report changes in circumstances that affect eligibility and grant amount as changes occur. These changes shall be reported directly to the county welfare department in person, in writing, or by telephone. In all cases in

which monthly reporting is not required, a form advising recipients of what changes must be reported, and how they may be reported shall be provided to recipients of aid along with benefit payments each month.

(B) A reporting system that permits families with no income or whose only income is comprised of old age, survivors, or disability insurance benefits administered pursuant to Subchapter 2 (commencing with Section 401) of Chapter 7 of Title 42 of the United States Code, and with no changes in eligibility criteria, to report electronically monthly, using either an audio response or the food stamp on-line issuance and recording system, or a combination of both. Adequate instruction and training shall be provided to county welfare department staff and to recipients who choose to use this system prior to its implementation.

(C) A reporting system that requires all families to report changes in circumstances that affect eligibility and grant amount as changes occur. The changes shall be reported directly to the county welfare department in person, in writing, or by telephone. In all cases in which monthly reporting is not required, a form advising recipients of what changes must be reported, and how they may be reported, shall be provided to recipients of aid along with benefit payments each month.

(b) (1) The participating counties shall be responsible for preparing federal demonstration project proposals, to be submitted by the department, upon the department's review and approval of the proposals, to the federal agency on the counties' behalf. The development, operation, and evaluation of the pilot projects shall not result in an increase in the state allocation of county administrative funds.

(1.5) Each pilot county shall prepare and submit quarterly reports, annual reports, and a final report to the department.

(2) Each quarterly report shall be submitted no later than 30 calendar days after the end of the quarter.

(3) Each annual report shall be submitted no later than 45 days after the end of the year.

(4) (A) Each pilot county shall submit a final report not later than 90 days following completion of the pilot projects required by this section and Section 18920.

(B) (i) As part of the final report, the pilot counties shall prepare and submit evaluations of the pilot projects to the department.

(ii) Each evaluation shall include, but not be limited to, an analysis of the factors set forth in paragraph (3) of subdivision (a) compared to each other and the current reporting systems in both the AFDC and food stamp programs. The final evaluations shall be prepared by an independent consultant or consultants contracted with for that purpose prior to the commencement of the projects.

(C) The department shall review and approve the evaluations submitted by the pilot counties and shall submit them to the appropriate policy and fiscal committees of the Legislature.

(c) The department may terminate any or all of the pilot projects implemented pursuant to this section after a period of six months of operation if one or more of the pilot counties submits data to the department, or information is otherwise received, indicating that the pilot project or projects are not cost-effective or adversely impact recipients or county or state operations based on the factors set forth in subparagraph (C) of paragraph (3) of subdivision (a).

(d) The pilot projects shall be implemented only upon receipt of the appropriate federal waivers.

SEC. 3. Section 14105.98 of the Welfare and Institutions Code, as added by Chapter 279 of the Statutes of 1991, is amended to read:

14105.98. (a) The following definitions shall apply for purposes of this section:

(1) "Disproportionate share list" means an annual list of disproportionate share hospitals that provide acute inpatient services issued by the department for purposes of this section.

(2) "Fund" means the Medi-Cal Inpatient Payment Adjustment Fund, created pursuant to Section 14163.

(3) "Eligible hospital" means a hospital included on a disproportionate share list, which is eligible to receive payment adjustments under this section during a particular state fiscal year.

(4) "Hospital" means a health facility that is licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code to provide acute inpatient hospital services, and includes all components of the facility.

(5) "Payment adjustment" or "payment adjustment amount" means an amount paid under this section for acute inpatient hospital services provided by a disproportionate share hospital.

(6) "Payment adjustment year" means the particular state fiscal year with respect to which payments are to be made to eligible hospitals under this section.

(7) "Payment adjustment program" means the system of Medi-Cal payment adjustments for acute inpatient hospital services established by this section.

(8) "Annualized Medi-Cal inpatient paid days" means the total number of Medi-Cal acute inpatient hospital days, regardless of dates of service, for which payment was made by or on behalf of the department to a hospital, under present or previous ownership, during the most recent calendar year ending prior to the beginning of a particular payment adjustment year, including all Medi-Cal acute inpatient covered days of care for hospitals which are paid on a different basis than per diem payments.

(9) "Low-income utilization rate" means a percentage rate determined by the department in accordance with the requirements of Section 1396r-4(b)(3) of Title 42 of the United States Code, and included on a disproportionate share list.

(10) "Low-income number" means a hospital's low-income utilization rate rounded down to the nearest whole number, and included on a disproportionate share list.

(11) "1991 Peer Grouping Report" means the final report issued by the department dated May 1991, entitled "Hospital Peer Grouping."

(12) "Major teaching hospital" means a hospital that meets the definition of a university teaching hospital, major nonuniversity teaching hospital, or large teaching emphasis hospital as set forth on page 51 of the 1991 Peer Grouping Report.

(13) "Children's hospital" means a hospital that meets the definition of a children's hospital-state defined, as set forth on page 53 of the 1991 Peer Grouping Report, or which is listed in subdivision (a), or subdivisions (c) to (g), inclusive, of Section 16996.

(14) "Acute psychiatric hospital" means a hospital that meets the definition of an acute psychiatric hospital, a combination psychiatric/alcohol-drug rehabilitation hospital, or a psychiatric health facility, to the extent the facility is licensed to provide acute inpatient hospital service, as set forth on page 52 of the 1991 Peer Grouping Report.

(15) "Alcohol-drug rehabilitation hospital" means a hospital that meets the definition of an alcohol-drug rehabilitation hospital as set forth on page 52 of the 1991 Peer Grouping Report.

(16) "Emergency services hospital" means a hospital that is a licensed provider of basic emergency services as described in Sections 70411 to 70419, inclusive, of Title 22 of the California Code of Regulations, or that is a licensed provider of comprehensive emergency medical services as described in Sections 70451 to 70459, inclusive, of Title 22 of the California Code of Regulations.

(b) For each fiscal year commencing with 1991–92, there shall be Medi-Cal payment adjustment amounts paid to hospitals pursuant to this section. The amount of payments made and the eligible hospitals for each payment adjustment year shall be determined in accordance with the provisions of this section. The payments are intended to support health care services rendered by disproportionate share hospitals.

(c) For each fiscal year commencing with 1991–92, the department shall issue a disproportionate share list. The list shall be developed in accordance with subdivisions (e) and (f), and shall serve as a basis for payments under this section for the particular payment adjustment year. In developing the list, the department may, to the extent practicable, utilize applicable data which is consistent with analysis compiled or developed by the California Medical Assistance Commission.

(d) (1) Except as otherwise provided by this section, the payment adjustment amounts under this section shall be distributed as a supplement to, and concurrent with, payments on all billings for Medi-Cal acute inpatient hospital services that are paid through Medi-Cal claims payment systems on or after July 1, 1991. In connection with those billings, the department shall pay payment adjustment amounts in accordance with subdivision (g), (h), (i), or (j), as applicable, to any hospital qualifying under subdivision (e).

The nonfederal share of all payment adjustment amounts shall be funded by amounts from the fund. The department shall obtain federal matching funds for the payment adjustment program through customary Medi-Cal accounting procedures.

(2) As a limitation to paragraph (1), all payment adjustment amounts under this section, which are due with respect to billings paid through Medi-Cal claims payment systems on or after July 1, 1991, shall be suspended until the time federal approval is obtained for the payment adjustment program as part of the Medi-Cal program. For purposes of this section, federal approval requires both (i) approval by appropriate federal agencies of an amendment to the Medi-Cal State Plan, as referred to in subdivision (o), and (ii) confirmation by appropriate federal agencies regarding the availability of federal financial participation for the payment adjustment program at a level of at least 40 percent of the percentage of federal financial participation that is normally applicable for Medi-Cal expenditures for acute inpatient hospital services. At the time federal approval is obtained, the department shall proceed pursuant to subparagraphs (A) and (B) in connection with the suspended payment adjustment amounts.

(A) Except as provided by subdivision (*l*), or by any other subdivision of this section, any payment adjustment amounts which were suspended shall, within 60 days, be paid for all those billings paid through Medi-Cal claims payment systems during periods of time, on or after July 1, 1991, for which federal approval is effective for the payment adjustment program.

(B) Payment adjustment amounts shall not be paid in connection with any Medi-Cal billings which were paid through Medi-Cal claims payment systems during any period of time for which federal approval is not effective for the payment adjustment program.

(e) To qualify for payment adjustment amounts under this section, a hospital shall have been included on the disproportionate share list for the particular payment adjustment year. The list shall consist of those hospitals which satisfy both of the following requirements:

(1) The hospital shall meet the federal requirements for disproportionate share status set forth in subsection (d) of Section 1396r-4 of Title 42 of the United States Code.

(2) Either of the following shall apply:

(A) The hospital's medicaid inpatient utilization rate, as defined in Section 1396r-4(b)(2) of Title 42 of the United States Code, shall be at least one standard deviation above the mean medicaid inpatient utilization rate for hospitals receiving medicaid payments in the state.

(B) The hospital's low-income utilization rate shall exceed 25 percent.

(f) (1) For the 1991–92 payment adjustment year, a disproportionate share list shall be issued by the department no later than 65 days after the enactment of this section. For subsequent

payment adjustment years, a tentative listing shall be prepared by the department at least 60 days before the beginning of the particular payment adjustment year, and a disproportionate share list shall be issued no later than five days after the beginning of the particular payment adjustment year. All state agencies shall take all necessary steps to supply the most recent data available to the department to meet these deadlines. The Office of Statewide Health Planning and Development shall provide to the department, no later than March 1 of each year, the data specified by the department, as the data existed on the statewide data base file as of February 1 of each year (except that for the 1991–92 payment adjustment year, the Office of Statewide Health Planning and Development shall provide data as it existed on the statewide data base file as of August 30, 1991), from all of the following:

(A) Hospital annual disclosure reports, filed with the Office of Statewide Health Planning and Development pursuant to Section 443.31 of the Health and Safety Code, for hospital fiscal years which ended during the calendar year ending 13 months prior to the applicable February 1.

(B) Annual reports of hospitals, filed with the Office of Statewide Health Planning and Development pursuant to Section 439.2 of the Health and Safety Code, for the calendar year ending 13 months prior to the applicable February 1.

(C) Hospital patient discharge data reports, filed with the Office of Statewide Health Planning and Development pursuant to subdivision (g) of Section 443.31 of the Health and Safety Code, for the calendar year ending 13 months prior to the applicable February 1.

(D) Any other materials on file with the Office of Statewide Health Planning and Development.

(2) The disproportionate share list shall show all of the following:

(A) The name of the hospital.

(B) Based on the most recent annual data available, and expressed as a percentage, the hospital's Medi-Cal utilization rate and low-income utilization rate as referred to in paragraph (2) of subdivision (e). The department shall determine these rates in accordance with paragraph (4).

(C) Based on the hospital's low-income utilization rate, the hospital's low-income number.

(3) The department shall determine a hospital's satisfaction of paragraph (1) of subdivision (e) based on the most recent information available at the time the particular list is issued, whether the information relates to operations under present or previous ownership.

(4) To determine a hospital's Medi-Cal inpatient utilization rate and low-income utilization rate for purposes of disproportionate share lists, the department shall utilize the same methodology, formulae, and data sources as set forth in connection with interim determinations in Attachment 4.19-A of the Medi-Cal State Plan

(effective on or about July 1, 1990), except that the following shall apply:

(A) The calculations shall not be interim, but shall be final for purposes of this section.

(B) To the extent permitted by federal law, the payment adjustment amounts provided to hospitals pursuant to this section shall not be included for any purpose in the calculations and determinations made pursuant to this section.

(C) Any other variation otherwise required by this section or by federal law.

(D) The data utilized by the department shall relate to the hospital under present and previous ownership. When there has been a change of ownership, a change in the location of the main hospital facility, or a material change in patient admission patterns during the twenty-four months immediately prior to the payment adjustment year, and the change has resulted in a diminution of access for Medi-Cal inpatients at the hospital, all as determined by the department, the department shall, to the extent permitted by federal law, utilize current data that are reflective of the diminution of access, even if the data are not annual data.

(5) For purposes of payment adjustment amounts under this section, each disproportionate share list shall be considered complete when issued by the department pursuant to paragraph (1). Nothing on a disproportionate share list, once issued by the department, shall be modified for any reason, other than mathematical or typographical errors or omissions on the part of the department or the Office of Statewide Health Planning and Development in preparation of the list.

(g) For each Medi-Cal day of acute inpatient hospital service paid by or on behalf of the department during a payment adjustment year, regardless of dates of service, to a hospital on the applicable disproportionate share list, where that hospital, on the first day of the payment adjustment year, is a major teaching hospital, the hospital shall be paid the sum of all of the following amounts, except as limited by other applicable provisions of this section:

(1) A minimum payment adjustment of three hundred dollars ($300).

(2) The sum of the following amounts, minus three hundred dollars ($300):

(A) A ninety dollar ($90) payment adjustment for each percentage point, from 25 percent to 29 percent, inclusive, of the hospital's low-income number as shown on the disproportionate share list.

(B) A seventy dollar ($70) payment adjustment for each percentage point, from 30 percent to 34 percent, inclusive, of the hospital's low-income number as shown on the disproportionate share list.

(C) A fifty dollar ($50) payment adjustment for each percentage point, from 35 percent to 44 percent, inclusive, of the hospital's

low-income number as shown on the disproportionate share list.

(D) A thirty dollar ($30) payment adjustment for each percentage point, from 45 percent to 64 percent, inclusive, of the hospital's low-income number as shown on the disproportionate share list.

(E) A ten dollar ($10) payment adjustment for each percentage point, from 65 percent to 80 percent, inclusive, of the hospital's low-income number as shown on the disproportionate share list.

(3) If the sum calculated under paragraph (2) is less than zero, it shall be disregarded for payment purposes.

(h) For each Medi-Cal day of acute inpatient hospital service paid by or on behalf of the department during a payment adjustment year, regardless of dates of service, to a hospital on the applicable disproportionate share list, where that hospital, on the first day of the payment adjustment year, is a children's hospital, the hospital shall be paid the sum of four hundred fifty dollars ($450), except as limited by other applicable provisions of this section.

(i) For each Medi-Cal day of acute inpatient hospital service paid by or on behalf of the department during a payment adjustment year, regardless of dates of service, to a hospital on the applicable disproportionate share list, where that hospital, on the first day of the payment adjustment year, is an acute psychiatric hospital or an alcohol-drug rehabilitation hospital, the hospital shall be paid the sum of all of the following amounts, except as limited by other applicable provisions of this section:

(1) A minimum payment adjustment of fifty dollars ($50).

(2) The sum of the following amounts, minus fifty dollars ($50):

(A) A ten dollar ($10) payment adjustment for each percentage point, from 25 to 29 percent, inclusive, of the hospital's low-income number as shown on the disproportionate share list.

(B) A seven dollar ($7) payment adjustment for each percentage point, from 30 to 34 percent, inclusive, of the hospital's low-income number as shown on the disproportionate share list.

(C) A five dollar ($5) payment adjustment for each percentage point, from 35 to 44 percent, inclusive, of the hospital's low-income number as shown on the disproportionate share list.

(D) A two dollar ($2) payment adjustment for each percentage point, from 45 to 64 percent, inclusive, of the hospital's low-income number as shown on the disproportionate share list.

(E) A one dollar ($1) payment adjustment for each percentage point, from 65 to 80 percent, inclusive, of the hospital's low-income number as shown on the disproportionate share list.

(3) If the sum calculated under paragraph (2) is less than zero, it shall be disregarded for payment purposes.

(j) For each Medi-Cal day of acute inpatient hospital service paid by or on behalf of the department during a payment adjustment year, regardless of dates of service, to a hospital on the applicable disproportionate share list, where that hospital does not meet the criteria for receiving payments under subdivision (g), (h), or (i)

above, the hospital shall be paid the sum of all of the following amounts, except as limited by other applicable provisions of this section:

(1) A minimum payment adjustment of one hundred dollars ($100).

(2) If the hospital is an emergency services hospital at the time the payment adjustment is paid, a two hundred dollar ($200) payment adjustment.

(3) The sum of the following amounts minus one hundred dollars ($100), and minus an additional two hundred dollars ($200) if the hospital is an emergency services hospital at the time the payment adjustment is paid:

(A) A forty dollar ($40) payment adjustment for each percentage point, from 25 percent to 29 percent, inclusive, of the hospital's low-income number as shown on the disproportionate share list.

(B) A thirty-five dollar ($35) payment adjustment for each percentage point, from 30 percent to 34 percent, inclusive, of the hospital's low-income number as shown on the disproportionate share list.

(C) A thirty dollar ($30) payment adjustment for each percentage point, from 35 percent to 44 percent, inclusive, of the hospital's low-income number as shown on the disproportionate share list.

(D) A twenty dollar ($20) payment adjustment for each percentage point, from 45 percent to 64 percent, inclusive, of the hospital's low-income number as shown on the disproportionate share list.

(E) A fifteen dollar ($15) payment adjustment for each percentage point, from 65 percent to 80 percent, inclusive, of the hospital's low-income number as shown on the disproportionate share list.

(4) If the sum calculated under paragraph (3) is less than zero, it shall be disregarded for payment purposes.

(k) (1) For any particular payment adjustment year, no hospital may qualify for payments under more than one subdivision among subdivisions (g), (h), (i), and (j). If any hospital qualifies under more than one subdivision, the department shall determine which subdivision shall apply for payments.

(2) For each payment adjustment year beginning with 1992–93, the total applicable per diem payment adjustment amount calculated for each eligible hospital pursuant to subdivision (g), (h), (i), or (j) shall be adjusted by a percentage identical to the percentage increase in transfer amounts that the department has authorized for use pursuant to paragraph (1) of subdivision (h) of Section 14163 for the particular fiscal year.

(3) If an eligible hospital ordinarily is paid by or on behalf of the department for Medi-Cal acute inpatient hospital services based on a payment methodology other than per diem payments, the eligible hospital shall receive payment adjustment amounts under this

section based on its approved Medi-Cal days of acute inpatient hospital care, in the same fashion as all other eligible hospitals under this section.

(*l*) (1) In determining Medi-Cal days of service for purposes of payment adjustments under this section, the department shall recognize all acute inpatient hospital days of service required to be taken into account under federal law.

(2) Notwithstanding paragraph (1), there shall be, for each eligible hospital, a maximum limit on the number of Medi-Cal acute inpatient hospital days for which payment adjustment amounts may be paid under this section with respect to each payment adjustment year. The maximum limit shall be that number of days that equals 80 percent of the eligible hospital's annualized Medi-Cal inpatient paid days, as determined from all Medi-Cal paid claims records available through April 1 preceding the beginning of the payment adjustment year.

(m) No payment rate for any service rendered by any hospital under the Medi-Cal selective provider contracting program shall be reduced as a result of this section.

(n) Notwithstanding any other provision of law, to the extent consistent with Section 1396a(h) of Title 42 of the United States Code, and except as provided by this section, no maximum payment limit shall be placed on the amount of Medi-Cal payment adjustments which may be made to disproportionate share hospitals. The payments made to disproportionate share hospitals pursuant to this section and Section 14105.99 shall not cause any other amounts paid or payable to a hospital to be deemed in excess of any applicable maximum payment limit.

(o) The department shall promptly seek any necessary federal approvals in order to implement this section. Pursuant to Section 1396r-4 of Title 42 of the United States Code, and related federal medicaid statutes and regulations, payment adjustment systems for inpatient hospital services rendered by disproportionate share hospitals shall be included in a state's medicaid plan. Therefore, the department shall, prior to the end of the calendar quarter during which this section is enacted, submit for federal approval an amendment to the Medi-Cal State Plan in connection with the payment adjustment program.

(p) If, for any payment adjustment year, the amounts in the fund, when matched by federal funds pursuant to customary Medi-Cal accounting procedures, are insufficient to pay some or all of the payment adjustment amounts otherwise due under this section, payment adjustment amounts shall be reduced in accordance with the following paragraphs to resolve the insufficiency.

(1) All payment adjustment amounts for the entire payment adjustment year shall be reduced proportionately not to exceed 2 percent of the total payment adjustment amounts which otherwise would have been paid for the entire payment adjustment year.

(2) If the payment reductions authorized by paragraph (1) do not

resolve the insufficiency for the payment adjustment year, then, to the extent permitted by federal law, the following shall apply:

(A) The payment adjustment amounts, as reduced by paragraph 1, shall remain in effect for each eligible hospital whose low-income number is 30 percent or more.

(B) The payment adjustment amounts, as reduced by paragraph (1), for all other eligible hospitals shall be further reduced proportionately to resolve the insufficiency, but in no event to a level which would result in total payments to the eligible hospital in an amount less than 65 percent of the total payment adjustment amounts which would have been payable to the eligible hospital for the entire payment adjustment year had no reductions taken place.

(3) If the steps set forth in paragraph (2) are not permissible under federal law, or are not adequate to resolve the insufficiency, the payments to all eligible hospitals for the entire payment adjustment year shall be further reduced proportionately to resolve the insufficiency, but in no event to a level which would result in total payments to the eligible hospital in an amount less than 65 percent of the total payment adjustment amounts which would have been payable to the eligible hospital for the entire payment adjustment year had no reductions taken place.

(4) At such time as all eligible hospitals have been reduced to the 65 percent payment level set forth in paragraphs (2) and (3), the payments to all eligible hospitals for the payment adjustment year shall be further reduced proportionately to resolve any remaining insufficiency.

(q) (1) If it is necessary to apply the provisions of paragraph (3) of subdivision (p) at any time, the department shall, as soon as practicable, evaluate why the insufficiency arose and identify the projected occurrence and duration of any future insufficiencies.

(2) If the department determines as a result of the evaluations under paragraph (1) that (A) implementation of paragraph (3) of subdivision (p) will likely be necessary to resolve additional insufficiencies for the current payment adjustment year or the next payment adjustment year; and (B) that the level of federal financial participation realized by the payment adjustment program, for the current payment adjustment year as a whole, will be less than 30 percent of the percentage of federal financial participation that normally is applicable for Medi-Cal expenditures for acute inpatient hospital services, and that the level of federal financial participation for the payment adjustment program is expected to continue to remain below that 30 percent level for the next payment adjustment year as a whole, the department shall, as soon as practicable, implement paragraphs (3) and (4).

(3) If the department determines that the circumstances described in paragraph (2) are present, the payment adjustment program shall be terminated, effective as of the earliest date permissible under federal law. In that event, all installment payments to the fund which are already due pursuant to Section

14163 at the time of the department's determination shall remain due, and shall be collected by the Controller. However, installment payments which are not yet due at that time shall not become due.

(4) Within 90 days after the termination of the payment adjustment program, as referred to in paragraph (3), or as soon as practicable, the department shall determine whether any amounts remain in the fund which are not needed to pay prior payment adjustment amounts under this section. If remaining amounts exist in the fund, they shall be refunded to transferor entities on a pro rata basis, within 45 days after the date of the department's determination.

(r) The state shall be held harmless from any federal disallowance resulting from payments made under this section, and from payments made to hospitals based on transfers accepted by the department under Section 14164. Any hospital that has received payments under this section, or based on transfers accepted by the department under Section 14164 shall be liable for any audit exception or federal disallowance only with respect to the payments made to that hospital. The department shall recoup from a hospital the amount of any audit exception or federal disallowance in the manner authorized by applicable laws and regulations.

(s) (1) The department may utilize existing administrative appeal procedures for purposes of any appealable matter that arises under the payment adjustment program. The matters that may be appealed shall be limited to those related to the following:

(A) Paragraph (5) of subdivision (f).

(B) State audit disallowances of amounts paid to hospitals under the payment adjustment program.

(2) Calculations which are final pursuant to paragraph (4) or (5) of subdivision (f) or the procedures or data on which those calculations are based, shall not be appealed.

SEC. 4. Section 14105.99 of the Welfare and Institutions Code, as added by Chapter 279 of the Statutes of 1991, is amended to read:

14105.99. (a) For purposes of this section, "Attachment 4.19-A" means the Medi-Cal payment adjustment system for acute inpatient hospital services set forth in Attachment 4.19-A of the Medi-Cal State Plan which became effective on or about July 1, 1990.

(b) (1) It is the intent of the Legislature that the annual appropriation for, and distribution of, payments pursuant to Attachment 4.19-A shall be reduced as a result of the payment adjustment program set forth in Section 14105.98, but only when federal approval, as described in paragraph (2) of subdivision (d) of Section 14105.98, is gained for that payment adjustment program.

(2) When the payment adjustment program set forth in Section 14105.98 gains federal approval, Attachment 4.19-A shall become inoperative and any appropriated amount for Attachment 4.19-A that is unexpended shall revert to the Health Care Deposit Fund for use in support of the Medi-Cal program.

SEC. 5. Section 14163 of the Welfare and Institutions Code, as

added by Chapter 279 of the Statutes of 1991, is amended to read:

14163. (a) For purposes of this section, the following definitions shall apply:

(1) "Public entity" means a county, a city, a city and county, the University of California, a local hospital district, a local health authority, or any other political subdivision of the state.

(2) "Hospital" means a health facility that is licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code to provide acute inpatient hospital services, and includes all components of the facility.

(3) "Disproportionate share hospital" means a hospital providing acute inpatient services to Medi-Cal beneficiaries that meets the criteria for disproportionate share status relating to acute inpatient services set forth in Section 14105.98.

(4) "Disproportionate share list" means the annual list of disproportionate share hospitals for acute inpatient services issued by the department pursuant to Section 14105.98.

(5) "Fund" means the Medi-Cal Inpatient Payment Adjustment Fund.

(6) "Eligible hospital" means, for a particular state fiscal year, a hospital on the disproportionate share list that is eligible to receive payment adjustment amounts under Section 14105.98 during that state fiscal year.

(7) "Transfer year" means the particular state fiscal year during which public entities are required by this section to make an intergovernmental transfer of funds to the Controller.

(8) "Transferor entity" means a public entity that, for a particular transfer year, is required by this section to make an intergovernmental transfer of funds to the Controller.

(9) "Transfer amount" means the amount of the intergovernmental transfer of funds that this section requires for a particular transferor entity for a particular transfer year.

(10) "Intergovernmental transfer" means a transfer of funds from a public entity to the state, that is local government financial participation in Medi-Cal pursuant to the terms of this section.

(11) "Licensee" means an entity that has been issued a license to operate a hospital by the department.

(12) "Annualized Medi-Cal inpatient paid days" means the total number of Medi-Cal acute inpatient hospital days, regardless of dates of service, for which payment was made by or on behalf of the department to a hospital, under present or previous ownership, during the most recent calendar year ending prior to the beginning of a particular transfer year, including all Medi-Cal acute inpatient covered days of care for hospitals which are paid on a different basis than per diem payments.

(b) The Medi-Cal Inpatient Payment Adjustment Fund is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, the fund shall be continuously appropriated to, and under the administrative control of, the department for the

purposes specified in subdivision (d). The fund shall consist of the following:

(1) Transfer amounts collected by the Controller under this section, whether submitted by transferor entities pursuant to subdivision (i) or obtained by offset pursuant to subdivision (j).

(2) Any other intergovernmental transfers deposited in the fund, as permitted by Section 14164.

(3) Any interest that accrues with respect to amounts in the fund.

(c) Moneys in the fund, which shall not consist of any state general funds, shall be used as the source for the nonfederal share of payments to hospitals pursuant to Section 14105.98. Moneys shall be allocated from the fund by the department and matched by federal funds in accordance with customary Medi-Cal accounting procedures, and used to make payments pursuant to Section 14105.98.

(d) Except as otherwise provided in Section 14105.98 or in any provision of law appropriating a specified sum of money to the department for administering this section and Section 14105.98, moneys in the fund shall be used only for the following:

(1) Payments to hospitals pursuant to Section 14105.98.

(2) Transfers to the Health Care Deposit Fund in an amount equal to 8.608 percent of all transfer amounts deposited in the fund, the amount to be determined on a fiscal year basis. These transfers from the fund shall be made on a monthly basis to the Medi-Cal local assistance appropriation item (Item 4260-101-001 of the annual Budget Act) in support of Medi-Cal expenditures. The amount of these transfers to the Health Care Deposit Fund shall be reduced in the same fashion, and by identical reduction percentages as any reduction of payment adjustment which arises under paragraphs (1) and (3) of subdivision (p) of Section 14105.98.

(e) For the 1991–92 state fiscal year, the department shall determine, no later than 70 days after the enactment of this section, the transferor entities for the 1991–92 transfer year. To make this determination, the department shall utilize the disproportionate share list for the 1991–92 fiscal year, which shall be issued by the department no later than 65 days after the enactment of this section, pursuant to paragraph (1) of subdivision (f) of Section 14105.98. The department shall identify each eligible hospital on the list for which a public entity is the licensee as of July 1, 1991. The public entity that is the licensee of each identified eligible hospital shall be a transferor entity for the 1991–92 transfer year.

(f) The department shall determine, no later than 70 days after the enactment of this section, the transfer amounts for the 1991–92 transfer year. The transfer amounts shall be determined as follows:

(1) The eligible hospitals for 1991–92 shall be identified. For each hospital, the applicable total per diem payment adjustment amount under Section 14105.98 for the 1991–92 transfer year shall be computed. This amount shall be multiplied by 80 percent of the eligible hospital's annualized Medi-Cal inpatient paid days as

determined from all Medi-Cal paid claims records available through April 1, 1991. The products of these calculations for all eligible hospitals shall be added together to determine an aggregate sum for the 1991–92 transfer year.

(2) The eligible hospitals for 1991–92 involving transferor entities as licensees shall be identified. For each hospital, the applicable total per diem payment adjustment amount under Section 14105.98 for the 1991–92 transfer year shall be computed. This amount shall be multiplied by 80 percent of the eligible hospital's annualized Medi-Cal inpatient paid days as determined from all Medi-Cal paid claims records available through April 1, 1991. The products of these calculations for all eligible hospitals with transferor entities as licensees shall be added together to determine an aggregate sum for the 1991–92 transfer year.

(3) The aggregate sum determined under paragraph (1) shall be divided by the aggregate sum determined under paragraph (2), yielding a factor to be utilized in paragraph (4).

(4) The factor determined in paragraph (3) shall be multiplied by the amount determined for each hospital under paragraph (2). The product of this calculation for each hospital in paragraph (2) shall be divided by 1.827, yielding a transfer amount for the particular transferor entity for the transfer year, except as provided by paragraph (5).

(5) Only for the transfer year with respect to which the payment adjustment program set forth in Section 14105.98 first gains federal approval, a reduction in the transfer amount determined pursuant to paragraph (4) shall be applicable under the following circumstances:

(A) To determine any such reduction, the transfer amount determined pursuant to paragraph (4) shall first be multiplied by a fraction, the numerator of which is the number of days of the transfer year for which federal approval is effective and the denominator of which is 365.

(B) If the product of the calculation under subparagraph (A) is 80 percent or more of the transfer amount determined under paragraph (4), no reduction of the transfer amount determined under paragraph (4) shall apply.

(C) If the product of the calculation under subparagraph (A) is less than 80 percent of the transfer amount determined under paragraph (4), a reduction shall apply to the transfer amount determined under paragraph (4). The reduction shall be that particular amount which is equal to the difference between (i) the transfer amount determined under paragraph (4) and (ii) the amount calculated under subparagraph (A) divided by 80 percent.

(D) Any reduction of a transfer amount applicable under subparagraph (C) shall be spread equally among the installments referred to in subdivision (i).

(g) For the 1991–92 transfer year, the department shall notify each transferor entity in writing of its applicable transfer amount or amounts no later than 70 days after the enactment of this section,

which amount or amounts shall be subject to adjustment pursuant to subdivisions (f) and (i).

(h) For the 1992–93 transfer year and subsequent transfer years, transfer amounts shall be determined in the same procedural manner as set forth in subdivision (f), except:

(1) The department shall use all of the following:

(A) The disproportionate share list applicable to the particular transfer year, which shall be issued no later than five days after the beginning of the transfer year, to determine the eligible hospitals.

(B) The total per diem payment adjustment amounts calculated under Section 14105.98 for the particular transfer year.

(C) Data regarding annualized Medi-Cal inpatient paid days for the most recent calendar year ending prior to the beginning of the particular transfer year, as determined from all Medi-Cal paid claims records available through April 1 preceding the particular transfer year.

(D) The status of public entities as licensees of eligible hospitals as of July 1 of the particular transfer year.

Further, the transfer amounts calculated by the department may be increased by a percentage amount consistent with the Medi-Cal State Plan.

(2) The department shall prepare preliminary analyses and calculations regarding potential transfer amounts, and potential transferor entities shall be notified by the department of estimated transfer amounts, at least 60 days before the beginning of the particular transfer year. Written notices of transfer amounts shall be issued no later than five days after the beginning of the particular transfer year. All state agencies shall take all necessary steps in order to supply applicable data to the department to meet these deadlines. The Office of Statewide Health Planning and Development shall provide to the department, no later than March 1 of each year, the data specified by the department, as the data existed on the statewide data base file as of February 1 of each year (except that for the 1991–92 transfer year, the Office of Statewide Health Planning and Development shall provide data as it existed on the statewide data base file as of August 30, 1991), from all of the following:

(A) Hospital annual disclosure reports, filed with the Office of Statewide Health Planning and Development pursuant to Section 443.31 of the Health and Safety Code, for hospital fiscal years which ended during the calendar year ending 13 months prior to the applicable February 1.

(B) Annual reports of hospitals, filed with the Office of Statewide Health Planning and Development pursuant to Section 439.2 of the Health and Safety Code, for the calendar year ending 13 months prior to the applicable February 1.

(C) Hospital patient discharge data reports, filed with the Office of Statewide Health Planning and Development pursuant to subdivision (g) of Section 443.31 of the Health and Safety Code, for the calendar year ending 13 months prior to the applicable February 1.

(D) Any other materials on file with the Office of Statewide Health Planning and Development.

(i) (1) For the 1991–92 transfer year, each transferor entity shall pay its transfer amount or amounts to the Controller, for deposit in the fund, in eight equal installments. Except as provided below, the first installment shall accrue on July 25, 1991, and all other installments shall accrue on the 5th day of each month thereafter from August through February.

(2) Notwithstanding paragraph (1), no installment shall be payable to the Controller until that date which is 20 days after the department notifies the transferor entity in writing that the payment adjustment program set forth in Section 14105.98 has gained federal approval as part of the Medi-Cal program. For purposes of this section, federal approval requires both (i) approval by appropriate federal agencies of an amendment to the Medi-Cal State Plan, as referred to in subdivision (o) of Section 14105.98, and (ii) confirmation by appropriate federal agencies regarding the availability of federal financial participation for the payment adjustment program set forth in Section 14105.98 at a level of at least 40 percent of the percentage of federal financial participation that is normally applicable for Medi-Cal expenditures for acute inpatient hospital services.

(3) If any installment that would otherwise be payable under paragraph (1) is not paid because of the provisions of paragraph (2), then subparagraphs (A) and (B) shall be followed when federal approval is gained.

(A) All installments that were deferred based on the provisions of paragraph (2) shall be paid no later than 20 days after the department notifies the transferor entity in writing that federal approval has been gained, in an amount consistent with subparagraph (B).

(B) The installments paid pursuant to subparagraph (A) shall be paid in full, subject to an adjustment in amount pursuant to paragraph (5) of subdivision (f).

(4) All installments for the 1991–92 transfer year that arise in months after federal approval is gained shall be paid by the 5th day of the month or 20 days after the department notifies the transferor entity in writing that federal approval has been gained, whichever is later. These installments shall be subject to an adjustment in amount pursuant to paragraph (5) of subdivision (f).

(5) For the 1992–93 transfer year and subsequent transfer years, each transferor entity shall pay its transfer amount or amounts to the Controller, for deposit in the fund, in eight equal installments. The first installment shall be payable on July 10 of each transfer year. All other installments shall be payable on the 5th day of each month thereafter from August through February.

(6) A transferor entity may use any of the following funds for purposes of meeting its transfer obligations under this section:

(A) General funds of the transferor entity.

(B) Any other funds permitted by law to be used for these purposes, except that a transferor entity shall not submit to the Controller any federal funds unless those federal funds are authorized by federal law to be used to match other federal funds. In addition, no private donated funds from any health care provider, or from any person or organization affiliated with such a health care provider, shall be channeled through a transferor entity or any other public entity to the fund. The transferor entity shall be responsible for determining that funds transferred meet the requirements of this subparagraph.

(j) If a transferor entity does not submit any transfer amount within the time period specified in this section, the Controller shall offset immediately the amount owed against any funds which otherwise would be payable by the state to the transferor entity. The Controller, however, shall not impose an offset against any particular funds payable to the transferor entity where the offset would violate state or federal law.

(k) All amounts received by the Controller pursuant to subdivision (i), or offset by the Controller pursuant to subdivision (j), shall immediately be deposited in the fund.

(*l*) For purposes of this section, the disproportionate share list utilized by the department for a particular transfer year shall be identical to the disproportionate share list utilized by the department for the same state fiscal year for purposes of Section 14105.98. Nothing on a disproportionate share list, once issued by the department, shall be modified for any reason other than mathematical or typographical errors or omissions on the part of the department or the Office of Statewide Health Planning and Development in preparation of the list.

(m) Neither the intergovernmental transfers required by this section, nor any elective transfer made pursuant to Section 14164, shall create, lead to, or expand the health care funding or service obligations for current or future years for any transferor entity, except as required of the state by this section or as may be required by federal law, in which case the state shall be held harmless by the transferor entities on a pro rata basis.

(n) No amount submitted to the Controller pursuant to subdivision (i), or offset by the Controller pursuant to subdivision (j), shall be claimed or recognized as an allowable element of cost in Medi-Cal cost reports submitted to the department.

SEC. 6. Section 18920 is added to the Welfare and Institutions Code, to read:

18920. (a) (1) The department may conduct three pilot projects, to be located in the Counties of Los Angeles, Merced, and Santa Clara, upon approval of the department and the participating counties. The pilot projects shall test the reporting systems described in subparagraphs (A), (B), and (C) of paragraph (4).

(2) (A) The pilot project conducted in Los Angeles County shall

test one or both of the reporting systems described in subparagraphs (A) and (B) of paragraph (4). The pilot project population in Los Angeles County shall be limited to 10,000 cases for each test.

(B) The pilot projects in the other counties shall test one of the reporting systems described in subparagraphs (A) and (C) of paragraph (4) and shall be limited to 2,000 cases per project.

(3) (A) The pilot projects shall be designed and conducted according to standard scientific principles, and shall be in effect for a period of 24 months.

(B) The projects may be extended an additional year upon the approval of the department.

(C) The projects shall be designed to compare the monthly reporting system with alternatives described in paragraph (4) as to the phenomena described in subparagraph (C) of paragraph (3) of subdivision (a) of Section 11265.5.

(4) The pilot projects shall adopt reporting systems providing for one or more of the following:

(A) A reporting system that requires households with no income, other than grants issued by the county welfare department, or whose only income is comprised of old age, survivors, and disability insurance benefits administered pursuant to Subchapter 2 (commencing with Section 401) of Chapter 7 of Title 42 of the United States Code, and with no recent work history, to report changes in circumstances that affected eligibility and benefit amount as changes occur. These changes shall be reported directly to the county welfare department in person, in writing, or by telephone. In all cases in which monthly reporting is not required, a form advising recipients of what changes must be reported, and how they may be reported, shall be provided to recipients of aid along with benefit payments each month.

(B) A reporting system that permits households with no income, other than grants issued by the county welfare department, or whose only income is comprised of old age, survivors, and disability insurance benefits administered pursuant to Subchapter 2 (commencing with Section 401) of Chapter 7 of Title 42 of the United States Code, and with no changes in eligibility criteria, to report electronically monthly, using either an audio response system or the food stamp on-line issuance and recording system, or a combination of both. Adequate instruction and training shall be provided to county welfare department staff and to recipients who choose to use this system prior to its implementation.

(C) A reporting system that requires all households to report changes in circumstances that affect eligibility and benefit amount as changes occur. These changes shall be reported directly to the county welfare department in person, in writing, or by telephone. In all cases in which monthly reporting is not required, a form advising recipients of what changes must be reported, and how they may be reported, shall be provided to recipients of aid along with benefit payments each month.

(b) (1) The participating counties shall be responsible for preparing federal demonstration project proposals, to be submitted by the department. If federal approvals or waivers are necessary to implement the proposals, the department shall seek these approvals and waivers from the appropriate federal agency. The development, operation, and evaluation of the pilot projects shall not result in an increase in the state allocation of county administrative funds.

(1.5) The pilot counties shall prepare and submit quarterly reports, annual reports, and a final report to the department.

(2) Each quarterly report shall be submitted no later than 30 calendar days after the end of the quarter.

(3) Each annual report shall be submitted no later than 45 days after the end of the year.

(4) (A) Each pilot county shall submit a final report not later than 90 days following completion of the pilot projects required by this section and Section 11265.5.

(B) (i) The final reports shall each include an evaluation of the pilot project based on an analysis of the factors set forth in subparagraph (C) of paragraph (3) of subdivision (a) compared to each other, to the current reporting systems in the AFDC and Food Stamp programs and any additional factors as determined by the department. The final evaluation shall be prepared by an independent consultant or consultants contracted with for that purpose prior to the commencing of the projects.

(ii) Each evaluation shall include, but not be limited to, an analysis of the factors set forth in subparagraph (C) of paragraph (3) of subdivision (a) of Section 11265.5 compared to each other and the current reporting systems in both the AFDC and food stamp programs.

(C) The department shall review and approve the evaluations submitted by the pilot counties and shall submit them to the appropriate policy and fiscal committees of the Legislature.

(c) (1) The director may, by formal order, waive the enforcement of specific statutory requirements, regulations, and standards in one or more counties, as required for the implementation of the pilot projects.

(2) Any waiver under paragraph (1) shall meet all of the following requirements:

(A) It shall not conflict with the basic purposes, coverage, or benefits provided by law.

(B) It shall not be general in scope, but shall apply only to this project.

(C) It shall apply only during the authorized period during which the pilot projects are implemented under this section, not to exceed a period of three years.

(D) It shall provide alternative methods and procedures of administration.

(E) It shall not reduce the amount of benefits to which recipients would otherwise be entitled under the Food Stamp Program.

(F) It shall not take effect unless and until the appropriate federal agency has agreed to waive the federal requirements for the same project.

(d) The department may terminate any or all of the pilot projects implemented pursuant to this section after a period of six months of operation if one or more of the pilot counties submits data to the department, or information is otherwise received, indicating that the pilot project or projects are not cost-effective or adversely impact recipients or county or state operations based on the factors set forth in subparagraph (C) of paragraph (3) of subdivision (a).

(e) The pilot projects shall be implemented only upon receipt of the appropriate federal waivers.

SEC. 7. Notwithstanding any other provision of law, if any disproportionate share hospital ceases to provide acute inpatient hospital services during or before the calendar quarter in which the effective date falls, for federal purposes, for the payment adjustment program set forth in Section 14105.98 of the Welfare and Institutions Code, the obligation of the public entity that operated the disproportionate share hospital to transfer funds to the Medi-Cal Inpatient Payment Adjustment Fund in connection with the 1991–92 fiscal year shall be waived.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that sufficient funding is available to compensate disproportionate share hospitals for vital health care services during the 1991–92 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 1047

An act to amend Section 19577 of the Business and Professions Code, relating to horseracing.

[Approved by Governor October 14, 1991 Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 19577 of the Business and Professions Code is amended to read:

19577. (a) Any blood, urine, saliva, or any other test sample required by the board to be taken from a horse that is entered in any race shall be taken in duplicate if there is a sufficient test sample available after the official test sample has been taken. One sample shall be sent to the official racing laboratory approved and designated by the board, and the duplicate sample shall be sent to

an independent laboratory participating in the National Association of State Racing Commissioners Laboratory Quality Assurance Program. The board shall adopt regulations to ensure the security of obtaining all samples and the testing of those samples. If the official test sample tests positive for medication, the steward shall inform the trainer and the owner of those results. The trainer or the owner of the horse, upon being so informed, or the steward, may request that the duplicate sample be tested.

(b) The requesting party shall pay the testing costs of the duplicate sample.

(c) The steward of the race meeting where the sample was taken is in charge of handling and testing the sample until the steward refers the matter to the board. Except as provided in subdivision (a), the results of the tests from the official racing laboratory and the independent laboratory shall be confidential until the matter is referred to the board.

(d) If the test results from the independent laboratory are negative, a presumption affecting the burden of producing evidence pursuant to Section 603 of the Evidence Code of no evidentiary medication in the animal shall exist for purposes of this chapter.

CHAPTER 1048

An act to amend Section 14602 of, and to add Section 14602.1 to, the Vehicle Code, relating to driving offenses.

[Approved by Governor October 14, 1991 Filed with Secretary of State October 14, 1991]

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

SECTION 1. This act shall be known and may be cited as the Royce-Thompson Police and Bystander Protection and Safe Pursuit Act.

SEC. 2. Section 14602 of the Vehicle Code is amended to read:

14602. (a) (1) Whenever a person is convicted of any of the following offenses committed while driving a motor vehicle of which he or she is the owner, the court, at the time sentence is imposed on the person, may order the motor vehicle impounded for a period of not more than six months for a first conviction, and not more than 12 months for a second or subsequent conviction:

(A) Driving with a suspended or revoked driver's license.

(B) A violation of Section 2800.2 resulting in an accident or Section 2800.3, if either violation occurred within seven years of one or more separate convictions for a violation of any of the following:

(i) Section 23103, if the vehicle involved in the violation was driven at a speed of 100 or more miles per hour.

(ii) Section 23152.

(iii) Section 23153.

(iv) Section 191.5 of the Penal Code.

(v) Subdivision (c) of Section 192 of the Penal Code.

(2) The cost of keeping the vehicle is a lien on the vehicle pursuant to Chapter 6.5 (commencing with Section 3067) of Title 14 of Part 4 of Division 3 of the Civil Code.

(b) Notwithstanding subdivision (a), any motor vehicle impounded pursuant to this section which is subject to a chattel mortgage, conditional sale contract, or lease contract shall be released by the court to the legal owner upon the filing of an affidavit by the legal owner that the chattel mortgage, conditional sale contract, or lease contract is in default and shall be delivered to the legal owner upon payment of the accrued cost of keeping the vehicle.

SEC. 2. Section 14602.1 is added to the Vehicle Code, to read:

14602.1. (a) Every state and local law enforcement agency, including, but not limited to, city police departments and county sheriffs' offices, shall report to the Department of the California Highway Patrol, on a form approved by that department, all vehicle pursuit data, which shall include, but not be limited to, all of the following:

(1) Whether any person involved in a pursuit or a subsequent arrest was injured, specifying the nature of that injury.

(2) The violations which caused the pursuit to be initiated.

(3) The identity of the officers involved in the pursuit.

(4) The means or methods used to stop the suspect being pursued.

(5) The charges filed with the court by the district attorney.

(b) The Department of the California Highway Patrol shall compile these statistics and make this information available to the Legislature upon request.

SEC. 3. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1049

An act to amend Section 7471 of the Government Code, and to amend Sections 186.2, 186.10, 14165, and 14167 of the Penal Code, relating to money laundering.

[Approved by Governor October 14, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 7471 of the Government Code is amended to read:

7471. (a) Except in accordance with requirements of Title 11 (commencing with Section 14160) of Part 4 of the Penal Code or Section 7473, 7474, 7475, or 7476 of this code, no financial institution, or any director, officer, employee, or agent of a financial institution, may provide or authorize another to provide to an officer, employee, or agent of a state or local agency or department thereof, any financial records, copies thereof, or the information contained therein, if the director, officer, employee, or agent of the financial institution knows or has reasonable cause to believe that the financial records or information are being requested in connection with a civil or criminal investigation of the customer, whether or not an investigation is being conducted pursuant to formal judicial or administrative proceedings.

(b) This section is not intended to prohibit disclosure of the financial records of a customer or the information contained therein incidental to a transaction in the normal course of business of a financial institution if the director, officer, employee, or agent thereof making or authorizing the disclosure has no reasonable cause to believe that the financial records or the information contained in the financial records so disclosed will be used by a state or local agency or department thereof in connection with an investigation of the customer, whether or not an investigation is being conducted pursuant to formal judicial or administrative proceedings.

(c) This section shall not preclude a financial institution, in its discretion, from initiating contact with, and thereafter communicating with and disclosing customer financial records to, appropriate state or local agencies concerning suspected violation of any law.

(d) A financial institution which refuses to disclose the financial records of a customer, copies thereof or the information contained therein, in reliance in good faith upon the prohibitions of subdivision (a) shall not be liable to its customer, to a state or local agency, or to any other person for any loss or damage caused in whole or in part by the refusal.

(e) This section shall remain in effect until January 1, 1997, and as of that date is repealed, unless a later enacted statute which is

enacted before January 1, 1997, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1997, pursuant to Section 9611, Section 7471, as added by Section 5 of Chapter 1320 of the Statutes of 1976, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 2. Section 186.2 of the Penal Code, as amended by Section 4 of Chapter 930 of the Statutes of 1989, is amended to read:

186.2. For purposes of the application of this chapter, the following definitions shall govern:

(a) "Criminal profiteering activity" means any act committed or attempted or any threat made for financial gain or advantage, which act or threat may be charged as a crime under any of the following sections:

(1) Arson, as defined in Section 451.

(2) Bribery, as defined in Sections 67, 67.5, and 68.

(3) Child pornography or exploitation, as defined in subdivision (b) of Section 311.2, or Section 311.3 or 311.4, which may be prosecuted as a felony.

(4) Felonious assault, as defined in Section 245.

(5) Embezzlement, as defined in Sections 424 and 503.

(6) Extortion, as defined in Section 518.

(7) Forgery, as defined in Section 470.

(8) Gambling, as defined in Sections 337a to 337f, inclusive, and Section 337i, except the activities of a person who participates solely as an individual bettor.

(9) Kidnapping, as defined in Section 207.

(10) Mayhem, as defined in Section 203.

(11) Murder, as defined in Section 187.

(12) Pimping and pandering, as defined in Section 266.

(13) Receiving stolen property, as defined in Section 496.

(14) Robbery, as defined in Section 211.

(15) Solicitation of crimes, as defined in Section 653f.

(16) Grand theft, as defined in Section 487.

(17) Theft or taking of any motor vehicle, trailer, or vessel as described in Section 487h of this code or any vehicle as described in Section 10851 of the Vehicle Code.

(18) Trafficking in controlled substances, as defined in Sections 11351, 11352, and 11353 of the Health and Safety Code.

(19) Violation of the laws governing corporate securities, as defined in Section 25541 of the Corporations Code.

(20) Any of the offenses contained in Chapter 7.5 (commencing with Section 311) of Title 9, relating to obscene matter, or in Chapter 7.6 (commencing with Section 313) of Title 9, relating to harmful matter which may be prosecuted as a felony.

(21) Presentation of a false or fraudulent claim, as defined in Section 556 of the Insurance Code.

(22) Money laundering, as defined in Section 186.10.

(23) Conspiracy to commit any of the crimes listed above, as defined in Section 182.

(b) "Pattern of criminal profiteering activity" means engaging in at least two incidents of criminal profiteering, as defined by this act, which meet the following requirements:

(1) Have the same or a similar purpose, result, principals, victims or methods of commission, or are otherwise interrelated by distinguishing characteristics.

(2) Are not isolated events.

(3) Were committed as a criminal activity of organized crime.

Acts which would constitute a "pattern of criminal profiteering activity" may not be used by a prosecuting agency to seek the remedies provided by this chapter unless the underlying offense occurred after the effective date of this chapter and the prior act occurred within 10 years, excluding any period of imprisonment, of the commission of the underlying offense. A prior act may not be used by a prosecuting agency to seek remedies provided by this chapter if a prosecution for that act resulted in an acquittal.

(c) "Prosecuting agency" means the Attorney General or the district attorney of any county.

(d) "Organized crime" means crime which is of a conspiratorial and (1) organized nature and which seeks to supply illegal goods and services such as narcotics, prostitution, loan sharking, gambling, and pornography or, (2) through planning and coordination of individual efforts, to conduct the illegal activities of arson for profit, hijacking, insurance fraud, smuggling, operating vehicle theft rings, or systematically encumbering the assets of a business for the purpose of defrauding creditors.

(e) "Underlying offense" means an offense enumerated in subdivision (a) for which the defendant is being prosecuted.

(f) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1993, deletes or extends that date.

SEC. 3. Section 186.2 of the Penal Code, as added by Section 4.1 of Chapter 930 of the Statutes of 1989, is amended to read:

186.2. For purposes of the application of this chapter, the following definitions shall govern:

(a) "Criminal profiteering activity" means any act committed or attempted or any threat made for financial gain or advantage, which act or threat may be charged as a crime under any of the following sections:

(1) Arson, as defined in Section 451.

(2) Bribery, as defined in Sections 67, 67.5, and 68.

(3) Child pornography or exploitation, as defined in subdivision (b) of Section 311.2, or Section 311.3 or 311.4, which may be prosecuted as a felony.

(4) Felonious assault, as defined in Section 245.

(5) Embezzlement, as defined in Sections 424 and 503.

(6) Extortion, as defined in Section 518.

(7) Forgery, as defined in Section 470.

(8) Gambling, as defined in Sections 337a to 337f, inclusive, and

Section 337i, except the activities of a person who participates solely as an individual bettor.

(9) Kidnapping, as defined in Section 207.

(10) Mayhem, as defined in Section 203.

(11) Murder, as defined in Section 187.

(12) Pimping and pandering, as defined in Section 266.

(13) Receiving stolen property, as defined in Section 496.

(14) Robbery, as defined in Section 211.

(15) Solicitation of crimes, as defined in Section 653f.

(16) Grand theft, as defined in Section 487.

(17) Trafficking in controlled substances, as defined in Sections 11351, 11352, and 11353 of the Health and Safety Code.

(18) Violation of the laws governing corporate securities, as defined in Section 25541 of the Corporations Code.

(19) Any of the offenses contained in Chapter 7.5 (commencing with Section 311) of Title 9, relating to obscene matter, or in Chapter 7.6 (commencing with Section 313) of Title 9, relating to harmful matter which may be prosecuted as a felony.

(20) Presentation of a false or fraudulent claim, as defined in Section 556 of the Insurance Code.

(21) Money laundering, as defined in Section 186.10.

(22) Conspiracy to commit any of the crimes listed above, as defined in Section 182.

(b) "Pattern of criminal profiteering activity" means engaging in at least two incidents of criminal profiteering, as defined by this act, which meet the following requirements:

(1) Have the same or a similar purpose, result, principals, victims or methods of commission, or are otherwise interrelated by distinguishing characteristics.

(2) Are not isolated events.

(3) Were committed as a criminal activity of organized crime.

Acts which would constitute a "pattern of criminal profiteering activity" may not be used by a prosecuting agency to seek the remedies provided by this chapter unless the underlying offense occurred after the effective date of this chapter and the prior act occurred within 10 years, excluding any period of imprisonment, of the commission of the underlying offense. A prior act may not be used by a prosecuting agency to seek remedies provided by this chapter if a prosecution for that act resulted in an acquittal.

(c) "Prosecuting agency" means the Attorney General or the district attorney of any county.

(d) "Organized crime" means crime which is of a conspiratorial and (1) organized nature and which seeks to supply illegal goods and services such as narcotics, prostitution, loan sharking, gambling, and pornography or, (2) through planning and coordination of individual efforts, to conduct the illegal activities of arson for profit, hijacking, insurance fraud, smuggling, operating vehicle theft rings, or systematically encumbering the assets of a business for the purpose of defrauding creditors.

(e) "Underlying offense" means an offense enumerated in subdivision (a) for which the defendant is being prosecuted.

This section shall become operative on January 1, 1993.

SEC. 4. Section 186.10 of the Penal Code is amended to read:

186.10. (a) Any person who conducts or attempts to conduct a transaction involving a monetary instrument or instruments of a value exceeding five thousand dollars ($5,000) through a financial institution (1) with the intent to promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on of any criminal activity, or (2) knowing that the monetary instrument represents the proceeds of, or is derived directly or indirectly from the proceeds of, criminal activity, is guilty of the crime of money laundering. In consideration of the constitutional right to counsel afforded by the Sixth Amendment to the United States Constitution and Section 15 of Article 1 of the California Constitution, when a case involves an attorney who accepts a fee for representing a client in a criminal investigation or proceeding, the prosecution shall additionally be required to prove that the monetary instrument was accepted by the attorney with the intent to disguise or aid in disguising the source of the funds or the nature of the criminal activity.

A violation of this section shall be punished by imprisonment in the county jail for not more than one year or in the state prison, by a fine of not more than two hundred fifty thousand dollars ($250,000) or twice the value of the property transacted, whichever is greater, or by both that imprisonment and fine. However, for a second or subsequent conviction for a violation of this section, the maximum fine that may be imposed is five hundred thousand dollars ($500,000) or five times the value of the property transacted, whichever is greater.

(b) Notwithstanding any other provision of law, for purposes of this section, each individual transaction conducted shall constitute a separate, punishable offense.

(c) This chapter shall remain in effect until January 1, 1997, and as of that date is repealed.

SEC. 5. Section 14165 of the Penal Code is amended to read:

14165. (a) The department shall analyze the reports required by Section 14162 and shall report any possible violations indicated by this analysis to the appropriate criminal justice agency.

(b) The department, in the discretion of the Attorney General, may make a report or information contained in a report filed under Section 14162 available to a district attorney or a deputy district attorney in this state, upon request made by the district attorney or his or her designee. The report or information shall be available only for a purpose consistent with this title and subject to regulations prescribed by the Attorney General, which shall require the district attorney or his or her designee seeking the report or information contained in the report to specify in writing the specific reasons for believing that a provision of this title or Section 186.10 has been

violated.

(c) The department shall destroy a report filed with it under Section 14162 at the end of the fifth calendar year after receipt of the report, unless either of the following is true:

(1) The report or information contained in the report is known by the department to be the subject of an existing criminal proceeding.

(2) The department has received subsequent reports concerning the person or persons involved in the reported transaction.

If a report is retained beyond five years pursuant to paragraph (2), the department shall destroy the report at the end of the 10th calendar year after receipt of the report, unless the report or information contained in the report is the subject of existing criminal proceedings.

SEC. 6. Section 14167 of the Penal Code is amended to read:

14167. Any report, record, information, analysis, or request obtained by the department or any agency pursuant to this title is not a public record as defined in Section 6252 of the Government Code and is not subject to disclosure under Section 6253 of the Government Code.

This title shall remain in effect until January 1, 1997, and as of that date is repealed.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1050

An act to repeal and add Sections 114 and 10586 of the Health and Safety Code, relating to vital statistics, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 14, 1991 Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 114 of the Health and Safety Code is repealed.

SEC. 2. Section 114 is added to the Health and Safety Code, to read:

114. (a) The fees or charges for a record search or for the

issuance of any certificate, permit, registration, or any other document pursuant to Sections 26832, 26840, and 26859 of the Government Code, or Sections 10375, 10376.8, 10400, 10420, 10430, 10433.3, 10450, 10455, 10470, 10475, 10500, 10550, 10575, 10585, 10586, 10605, 10606, 10610, 10610.2, 10612, 10613, 10614, 10615, 10616, 10617, 10618, and 10619 of this code, may be adjusted annually by the percentage change determined pursuant to Section 113.

The base amount to be adjusted shall be the statutory base amount of the fee or charge plus the sum of the prior adjustments to the statutory base amount. Whenever the statutory base amount is amended, the base amount shall be the new statutory base amount plus the sum of adjustments to the new statutory base amount calculated subsequent to the statutory base amendment. The actual dollar fee or charge shall be rounded to the next highest whole dollar.

(b) Beginning January 1, 1983, the state department shall annually publish a list of the actual numerical fee charges as adjusted pursuant to this section. This adjustment of fees and the publication of the fee list shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 3. Section 10586 of the Health and Safety Code is repealed.

SEC. 4. Section 10586 is added to the Health and Safety Code, to read:

10586. (a) The State Registrar shall, upon request and payment of a fee, as provided in subdivision (c), supply to any applicant a decorative heirloom certificate, as described in subdivision (b), of any marriage registered with that official.

(b) The decorative heirloom certificate issued under subdivision (a) shall be of a distinctive design as determined by the state department and shall include the seal of the State of California and a facsimile of the State Registrar's signature, but shall include no elected official's signature. The certificate shall only contain identification information, as determined by the State Registrar.

(c) The fee required for the decorative heirloom certificate issued pursuant to this section shall be fifteen dollars ($15). The fee shall be utilized to reimburse the state department for the administrative costs of developing, preparing, and providing the decorative heirloom certificate and for a public awareness and advertising program to inform the public of the availability of the decorative heirloom certificate. The fee shall be deposited into the General Fund.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the provisions relating to the issuance of a decorative heirloom marriage certificate by the State Registrar may become operative at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1051

An act to add Section 3344.6 to the Civil Code, and to add Section 115.2 to the Penal Code, relating to campaign materials.

[Approved by Governor October 14, 1991 Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 3344.6 is added to the Civil Code, to read:

3344.6. (a) Any candidate for elective office whose election or defeat is expressly advocated in any campaign advertisement which violates subdivision (a) of Section 115.2 of the Penal Code shall have a civil cause of action against any person committing the violation.

(b) If a mass mailing or other printed matter which violates subdivision (a) of Section 115.2 of the Penal Code expressly advocates the election or defeat of more than one candidate, only the candidate or candidates to whom the misstatement or misrepresentation directly relates shall have a civil cause of action pursuant to this section.

(c) Any person bringing a cause of action pursuant to this section may recover damages in an amount of two times the cost of the communication, but not to exceed fifty thousand dollars ($50,000).

SEC. 2. Section 115.2 is added to the Penal Code, to read:

115.2. (a) No person shall publish or cause to be published, with actual knowledge, and intent to deceive, any campaign advertisement containing false or fraudulent depictions, or false or fraudulent representations, of official public documents or purported official public documents.

(b) For purposes of this section, "campaign advertisement" means any communication directed to voters by means of a mass mailing as defined in Section 82041.5 of the Government Code, a paid newspaper advertisement, an outdoor advertisement, or any other printed matter, if the expenditures for that communication are required to be reported by Chapter 4 (commencing with Section 84100) of Title 9 of the Government Code.

(c) Any violation of this section is a misdemeanor punishable by imprisonment in the county jail, or by a fine not to exceed fifty thousand dollars ($50,000), or both.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the

California Constitution.

CHAPTER 1052

An act to amend Section 4799.13 of the Public Resources Code, relating to forest resources.

[Approved by Governor October 14, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 4799.13 of the Public Resources Code is amended to read:

4799.13. (a) There is hereby created in the State Treasury, the Forest Resources Improvement Fund. The moneys in the Forest Resources Improvement Fund may only be expended, when appropriated therefor by the Legislature, for the following purposes:

(1) Forest improvement programs and related administrative costs pursuant to Chapter 1 (commencing with Section 4790).

(2) Urban forestry programs and related administrative costs pursuant to Chapter 2 (commencing with Section 4799.06).

(3) Wood energy programs pursuant to Chapter 4 (commencing with Section 4799.14).

(4) Reimbursing the General Fund for the cost of operation of the state forests administered by the director pursuant to Section 4646.

(5) Cost of operations associated with management of lands held in trust by the state and operated as demonstration state forests by the department pursuant to Section 4646, if those lands are managed so that they produce revenue that offsets, within a reasonable period of time, any costs to the state of managing those lands.

(6) Forest pest research and management, technical transfer, and outreach.

(b) No moneys in the Forest Resources Improvement Fund may be used for the costs of administering the Z'berg-Nejedly Forest Practice Act of 1973 (Chapter 8 (commencing with Section 4511) of Part 2).

(c) The Forest Resources Improvement Fund shall be the depository for all revenue derived from the repayment of loans made or interest received pursuant to Chapter 1 (commencing with Section 4790) of this part, and the receipts from the sale of forest products, as defined in Section 4638, from the state forests. Ten percent of the net state forest receipts from the sale of forest products, after the General Fund is reimbursed for costs of operating the state forests, is available, when appropriated therefor by the Legislature, for urban forestry programs pursuant to Chapter 2 (commencing with Section 4799.06) of this part.

(d) The director may accept grants and donations of equipment,

seedlings, labor, materials, or funds from any source for the purpose of supporting or facilitating activities undertaken pursuant to this part. Any funds received shall be deposited by the director in the Forest Resources Improvement Fund.

(e) Each proposed expenditure by the department of moneys from the Forest Resources Improvement Fund shall be included as a separate item and scheduled individually in the Budget Bill for each fiscal year for consideration by the Legislature. These appropriations shall be subject to all of the limitations contained in the Budget Bill and to all other fiscal procedures prescribed by law with respect to the expenditure of state funds.

CHAPTER 1053

An act to amend Section 11620 of the Insurance Code, relating to insurance.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 11620 of the Insurance Code is amended to read:

11620. The commissioner, after a public hearing, shall approve or issue a reasonable plan for the equitable apportionment, among insurers admitted to transact liability insurance, of those applicants for automobile bodily injury and property damage liability insurance who are in good faith entitled to but are unable to procure that insurance through ordinary methods. The commissioner shall require the payment of five hundred ninety dollars ($590), in advance, as a fee for the filing of amendments to the plan with the commissioner. The commissioner may approve or issue reasonable amendments to the plan if he or she first holds a public hearing to determine whether the amendments are in keeping with the intent and purpose of this section. All such insurers shall subscribe to the plan and its amendments and, subject to Section 11621, participate therein.

Notice of the public hearings required by this section shall be published at least 60 days prior to the hearing or close of the public comment period on the adoption, amendment, or repeal of a regulation, in two newspapers of general circulation, one published in the City and County of San Francisco, and the other published in the City of Los Angeles.

CHAPTER 1054

An act to amend Section 2982 of the Civil Code, to amend Section 18218 of the Financial Code, to amend Section 44020 of the Health and Safety Code, and to amend Sections 11614, 11713.1, 12103, and 24007.5 of the Vehicle Code, relating to vehicles.

[Approved by Governor October 14, 1991 Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 2982 of the Civil Code is amended to read:

2982. Every conditional sale contract subject to this chapter shall contain the disclosures required by Regulation Z whether or not Regulation Z applies to the transaction. In addition, to the extent applicable, the contract shall contain the other disclosures and notices required by, and shall satisfy the requirements and limitations of, this section. The disclosures required by subdivision (a) may be itemized or subtotaled to a greater extent than as required by that subdivision and shall be made together and in the sequence set forth in that subdivision. All other disclosures and notices may appear in the contract in any location or sequence and may be combined or interspersed with other provisions of the contract.

(a) The contract shall contain the following disclosures, as applicable, which shall be labeled "itemization of the amount financed":

(1) (A) The cash price, exclusive of document preparation fees, taxes imposed on the sale, pollution control certification fees, and the amount charged for a service contract.

(B) The fee to be retained by the seller for document preparation.

(C) The fee charged by the seller for certifying that the motor vehicle complies with applicable pollution control requirements.

(D) Taxes imposed on the sale.

(E) The amount charged for a service contract.

(F) The total cash price, which is the sum of subparagraphs (A) to (E), inclusive.

(2) An itemization of the amounts to be paid to any public officer for license, certificate of title, motor vehicle smog impact fee, and registration.

(3) The aggregate amount of premiums agreed, upon execution of the contract, to be paid for policies of insurance included in the contract, excluding the amount of any insurance premium included in the finance charge.

(4) The amount of the state fee for issuance of a certificate of compliance, noncompliance, or waiver pursuant to any applicable pollution control statute.

(5) A subtotal representing the sum of the foregoing items.

(6) The amount of the buyer's downpayment itemized to show the following:

(A) The net agreed value of the property being traded in.

(B) The amount of any portion of the downpayment to be deferred until not later than the due date of the second regularly scheduled installment under the contract and which is not subject to a finance charge.

(C) The amount of any manufacturer's rebate applied or to be applied to the downpayment.

(D) The remaining amount paid or to be paid by the buyer as a downpayment.

(7) The amount of any administrative finance charge, labeled "prepaid finance charge."

(8) The difference between item (5) and the sum of items (6) and (7), labeled "amount financed."

(b) No particular terminology is required to disclose the items set forth in subdivision (a) except as expressly provided in that subdivision.

(c) If payment of all or a portion of the downpayment is to be deferred, the deferred payment shall be reflected in the payment schedule disclosed pursuant to Regulation Z.

(d) If the downpayment includes property being traded in, the contract shall contain a brief description of that property.

(e) The contract shall contain the names and addresses of all persons to whom the notice required under Section 2983.2 and permitted under Sections 2983.5 and 2984 is to be sent.

(f) (1) Where the contract includes a finance charge determined on the precomputed basis, the contract shall identify the method of computing the unearned portion of the finance charge in the event of prepayment in full of the buyer's obligation and contain a statement of the amount or method of computation of any charge that may be deducted from the amount of any such unearned finance charge in computing the amount that will be credited to the obligation or refunded to the buyer. The method of computing the unearned portion of the finance charge shall be sufficiently identified with a reference to the actuarial method if the computation will be under that method. The method of computing the unearned portion of the finance charge shall be sufficiently identified with a reference to the Rule of 78's, the sum of the digits, or the sum of the periodic time balances method in all other cases, and those references shall be deemed to be equivalent for disclosure purposes.

(2) Where the contract includes a finance charge which is determined on the simple-interest basis but provides for a minimum finance charge in the event of prepayment in full, the contract shall contain a statement of that fact and the amount of the minimum finance charge or its method of calculation.

(g) (1) Where the contract includes a finance charge which is determined on the precomputed basis and provides that the

unearned portion of the finance charge to be refunded upon full prepayment of the contract is to be determined by a method other than actuarial, the contract shall contain a notice, in at least 10-point bold type if the contract is printed, reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is $1 or more. Because of the way the amount of this refund will be figured, the time when you prepay could increase the ultimate cost of credit under this agreement. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(2) Where the contract includes a finance charge which is determined on the precomputed basis and provides for the actuarial method for computing the unearned portion of the finance charge upon prepayment in full, the contract shall contain a notice, in at least 10-point bold type if the contract is printed, reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is $1 or more. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(3) Where the contract includes a finance charge which is determined on the simple-interest basis, the contract shall contain a notice, in at least 10-point bold type if the contract is printed, reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(h) The contract shall contain a notice in at least 8-point bold type, acknowledged by the buyer, that reads as follows:

"If you have a complaint concerning this sale, you should try to resolve it with the seller.

Complaints concerning unfair or deceptive practices or methods by the seller may be referred to the city attorney, the district attorney, or the Department of Motor Vehicles, Division of Compliance, 2570 24th Street, Sacramento, California 95818, or any combination thereof.

After this contract is signed, the seller may not change the financing or payment terms unless you agree in writing to the change. You do not have to agree to any change, and it is an unfair or deceptive practice for the seller to make a unilateral change.

_____

Buyer's Signature"

(i) (1) The contract shall contain an itemization of any insurance included as part of the amount financed disclosed pursuant to paragraph (3) of subdivision (a) and of any insurance included as part of the finance charge. The itemization shall identify the type of insurance coverage and the premium charged therefor, and, if the insurance expires before the date of the last scheduled installment included in the repayment schedule, the term of the insurance shall be stated.

(2) If any charge for insurance (other than for credit life or disability) is included in the contract balance and disbursement of any part thereof is to be made more than one year after the date of the conditional sale contract, any finance charge on the amount to be disbursed after one year shall be computed from the month the disbursement is to be made to the due date of the last installment under the conditional sale contract.

(j) (1) The dollar amount of the disclosed finance charge shall not exceed the greater of:

(A) (i) One and one-half percent on so much of the unpaid balance as does not exceed two hundred twenty-five dollars ($225), 1⅙ percent on so much of the unpaid balance in excess of two hundred twenty-five dollars ($225) as does not exceed nine hundred dollars ($900), ⅚ of 1 percent on so much of the unpaid balance in excess of nine hundred dollars ($900) as does not exceed one thousand six hundred fifty dollars ($1,650), and $^{13}/_{24}$ of 1 percent on that portion of the unpaid balance which exceeds one thousand six hundred fifty dollars ($1,650), or

(ii) One percent of the entire unpaid balance; multiplied in either case by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(B) If the finance charge is determined by the precomputed basis, twenty-five dollars ($25); or

(C) If the finance charge or a portion thereof is determined by the simple-interest basis:

(i) Twenty-five dollars ($25) if the unpaid balance does not exceed one thousand dollars ($1,000), (ii) fifty dollars ($50) if the unpaid balance exceeds one thousand dollars ($1,000) but does not exceed two thousand dollars ($2,000), or (iii) seventy-five dollars ($75) if the unpaid balance exceeds two thousand dollars ($2,000).

(2) The holder of the contract shall not charge, collect, or receive a finance charge which exceeds the disclosed finance charge, except

to the extent (A) caused by the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled whether or not the parties enter into an agreement pursuant to Section 2982.3, (B) permitted by paragraph (2), (3), or (4) of subdivision (c) of Section 226.17 of Regulation Z, or (C) permitted by subdivisions (a) and (c) of Section 2982.8.

(3) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars ($5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under subparagraph (C) of paragraph (1), charge, receive, or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars ($75), provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by subparagraph (A) of paragraph (1). Any administrative finance charge which is charged, received, or collected by a holder shall be deemed a finance charge earned on the date of the contract.

(4) When a contract provides for unequal or irregular payments, or payments on other than a monthly basis, the maximum finance charge shall be at the effective rate provided for in paragraph (1), having due regard for the schedule of installments.

(k) The contract may provide that for each installment in default for a period of not less than 10 days the buyer shall pay a delinquency charge in an amount not to exceed in the aggregate 5 percent of the delinquent installment, which amount may be collected only once on any installment regardless of the period during which it remains in default. Payments timely received by the seller under an extension or deferral agreement shall not be subject to a delinquency charge unless the charge is permitted by Section 2982.3. The contract may provide for reasonable collection costs and fees in the event of delinquency.

(*l*) Notwithstanding any provision of a contract to the contrary, the buyer may pay at any time before maturity the entire indebtedness evidenced by the contract without penalty. In the event of prepayment in full:

(1) If the finance charge was determined on the precomputed basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, provided, however, that the buyer shall be entitled to a refund credit in the amount of the unearned portion of the finance charge, except as provided in paragraphs (3) and (4). The amount of the unearned portion of the finance charge shall be at least as great a proportion of the finance charge, including any additional finance charge imposed pursuant to Section 2982.8 or other additional charge imposed because the contract has been extended, deferred, or refinanced, as the sum of

the periodic monthly time balances payable more than 15 days after the date of prepayment bears to the sum of all the periodic monthly time balances under the schedule of installments in the contract or, if the contract has been extended, deferred, or refinanced, as so extended, deferred, or refinanced. Where the amount of the refund credit is less than one dollar ($1), no refund credit need be made by the holder. Any refund credit may be made in cash or credited to the outstanding obligations of the buyer under the contract.

(2) If the finance charge or a portion thereof was determined on the simple-interest basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, including any earned finance charges which are unpaid as of that date and, if applicable, the amount provided in paragraph (3), and provided further that in cases where a finance charge is determined on the 360-day basis, the payments theretofore received will be assumed to have been received on their respective due dates regardless of the actual dates on which such payments were received.

(3) Where the minimum finance charge provided by subparagraph (B) or subparagraph (C) of paragraph (1) of subdivision (j), if either is applicable, is greater than the earned finance charge as of the date of prepayment, the holder shall be additionally entitled to the difference.

(4) The provisions of this subdivision shall not impair the right of the seller or the seller's assignee to receive delinquency charges on delinquent installments and reasonable costs and fees as provided in subdivision (k) or extension or deferral agreement charges as provided in Section 2982.3.

(5) Notwithstanding any provision of a contract to the contrary, whenever the indebtedness created by any contract is satisfied prior to its maturity through surrender of the motor vehicle, repossession of the motor vehicle, redemption of the motor vehicle after repossession, or any judgment, the outstanding obligation of the buyer shall be determined as provided in paragraph (1) or (2); provided further that the buyer's outstanding obligation shall be computed by the holder as of the date the holder recovers the value of the motor vehicle through disposition thereof or judgment is entered or, if the holder elects to keep the motor vehicle in satisfaction of the buyer's indebtedness, as of the date the holder takes possession of the motor vehicle.

(m) Notwithstanding any other provision of this chapter to the contrary, any information required to be disclosed in a conditional sale contract under this chapter may be disclosed in any manner, method, or terminology required or permitted under Regulation Z, as in effect at the time that disclosure is made, except that permitted by paragraph (2) of subdivision (c) of Section 226.18 of Regulation Z, provided that all of the requirements and limitations set forth in subdivision (a) of this section are satisfied. Nothing in this chapter prohibits the disclosure in that contract of additional information required or permitted under Regulation Z, as in effect at the time

that disclosure is made.

(n) If the seller imposes a fee for document preparation, the contract shall contain a disclosure that the fee is not a governmental fee.

(o) No seller may impose an application fee for a transaction governed by this chapter.

(p) The seller or holder may charge and collect a five-dollar ($5) fee for the return by a depository institution of a dishonored check, negotiated order of withdrawal, or share draft issued in connection with the contract, if the contract so provides or if the contract contains a generalized statement that the buyer may be liable for collection costs incurred in connection with the contract.

SEC. 1.3. Section 18218 of the Financial Code is amended to read:

18218. Notwithstanding any other provision of this division, an industrial loan company, in the collection of a delinquent loan of an unpaid principal balance, may do any of the following:

(a) Collect and receive the court costs and reasonable attorney's fees allowed by a court in a judgment against a defaulting debtor.

(b) Contract for, collect, and receive the bona fide expenses actually incurred and paid by the industrial loan company, not exceeding 10 percent of the unpaid principal balance of the loan where no judgment at law is sought.

(c) Contract for, collect, and receive the bona fide expenses actually incurred and paid by the industrial loan company in obtaining a certificate of compliance or certificate of noncompliance issued for a motor vehicle pursuant to Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code and the rules and regulations of the State Air Resources Board prior to the consignment of the vehicle for sale at public auction, pursuant to Sections 24007 and 24007.5 of the Vehicle Code.

SEC. 1.5. Section 44020 of the Health and Safety Code is amended to read:

44020. Notwithstanding any other provision of this chapter, the department may license any owner of a fleet of 10 or more motor vehicles subject to this chapter, who so elects, to implement and conduct the tests and to perform necessary service and adjustment on the fleet's vehicles under this chapter, subject to all of the following conditions:

(a) The owner's facilities or personnel, or both, or a designated contractor of the owner, shall be licensed by the department as a fleet smog check station, and the test and repair system shall conform, in the department's determination, with all provisions of this chapter and all rules and regulations adopted by the department. The regulations shall provide for adequate onsite inspection by the department.

(b) A license issued under this section is subject to Sections 44035 and 44050 and may be suspended or revoked by the department whenever the department determines, on the basis of random spot checks of the owner's inspection system and fleet vehicles, that the

system fails to conform or that certificates of compliance have been issued by the owner in violation of regulations adopted by the department. Any person licensed to conduct tests and service and adjustments under this section is deemed to have consented to provide the department with whatever access, information, and other cooperation the department reasonably determines are necessary to facilitate the random spot checks.

(c) A fleet owner licensed to conduct tests or make repairs pursuant to this chapter shall issue certificates of compliance for motor vehicles which comply with the requirements of this chapter. The cost limitations in Section 44017 shall not apply to any motor vehicle owned by a fleet owner licensed pursuant to this section.

(d) Notwithstanding subdivision (c), certificates of compliance or noncompliance prepared solely for the disposal or sale of motor vehicles owned by a fleet owner licensed pursuant to this section shall be subject to the cost limitations in Section 44017.

(e) The department shall establish initial and renewal license fees, which shall not exceed the reasonable costs of administering this section.

SEC. 2. Section 11614 of the Vehicle Code is amended to read:

11614. No lessor-retailer licensed under this chapter shall do any of the following in connection with any activity for which this license is required:

(a) Make or disseminate, or cause to be made or disseminated, before the public in this state, in any newspaper or other publication, or any advertising device, or by oral representation, or in any other manner or means whatever, any statement which is untrue or misleading and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading; or make or disseminate, or cause to be so disseminated, any statement as part of a plan or scheme with the intent not to sell any vehicle or sell service so advertised at the price stated therein, or as so advertised.

(b) Advertise or offer for sale in any manner, any vehicle not actually for sale at the premises of the lessor-retailer or available within a reasonable time to the lessor-retailer at the time of the advertisement or offer.

(c) Fail within 48 hours to give, in writing, notification to withdraw any advertisement of a vehicle that has been sold or withdrawn from sale.

(d) Advertise any specific vehicle for sale without identifying the vehicle by either its vehicle identification number or license number.

(e) Advertise the total price of a vehicle without including all costs to the purchaser at the time of delivery at the lessor-retailer's premises, except sales tax, vehicle registration fees, finance charges, certificate of compliance or noncompliance fees not exceeding thirty-five dollars ($35) pursuant to any statute, and any dealer documentary preparation charge. The dealer documentary charge

shall not exceed thirty-five dollars ($35).

(f) Fail to disclose, in the newspaper display advertisement of a vehicle for sale, that there will be added to the advertised total price at the time of sale, charges for sales tax, vehicle registration fees, the fee charged by the state for the issuance of any certificate of compliance or noncompliance pursuant to any statute, finance charges, or any dealer documentary preparation charge.

For purposes of this subdivision, "newspaper display advertisement" means any advertisement in a newspaper which is two or more newspaper columns in width or one newspaper column in width and more than seven inches in length.

(g) Advertise or otherwise represent, or knowingly allow to be advertised or represented on the lessor-retailer's behalf or at the lessor-retailer's place of business, that no downpayment is required in connection with the sale of a vehicle when a downpayment is in fact required and the buyer is advised or of a vehicle when a downpayment is in fact required and the buyer is advised or induced to finance the downpayment by a loan in addition to any other loan financing the remainder of the purchase price of the vehicle.

(h) Refuse to sell a vehicle to any person at the advertised total price, exclusive of sales tax, vehicle registration fees, finance charges, certificate of compliance or noncompliance pursuant to any statute, and any dealer documentary preparation charge, which charges shall not exceed thirty-five dollars ($35) for the documentary preparation charge and thirty-five dollars ($35) for the certificate of compliance or noncompliance pursuant to any statute, while the vehicle remains unsold or unleased, unless the advertisement states the advertised total price is good only for a specified time and the time has elapsed.

(i) Engage in the business for which the licensee is licensed without having in force and effect a bond required by Section 11612.

(j) Engage in the business for which the lessor-retailer is licensed without at all times maintaining a principal place of business and any branch office location required by this chapter.

(k) Permit the use of the lessor-retailer license, supplies, or books by any other person for the purpose of permitting that person to engage in the sale of vehicles required to be registered under this code, or to permit the use of the lessor-retailer license, supplies, or books to operate a branch office location to be used by any other person, if, in either situation, the licensee has no financial or equitable interest or investment in the vehicles sold by, or the business of, or branch office location used by, the person, or has no interest or investment other than commissions, compensations, fees, or any other thing of value received for the use of the lessor-retailer license, supplies, or books to engage in the sale of vehicles.

(*l*) Violate any provision of Article 10 (commencing with Section 28050) of Chapter 5 of Division 12.

(m) Represent the dealer documentary preparation charge, or certificate of compliance or noncompliance fee, as a governmental fee.

(n) Advertise free merchandise, gifts, or services provided by a lessor-retailer contingent on the purchase of a vehicle. "Free" includes merchandise or services offered for sale at a price less than the lessor-retailer's cost of the merchandise or services.

(o) Advertise vehicles and related goods or services with the intent not to supply reasonably expectable demand, unless the advertisement discloses a limitation of quantity.

(p) Use the term "rebate" or similar words such as "cash back" in advertising the sale of a vehicle.

(q) Require a person to pay a higher price for a vehicle and related goods or services for receiving advertised credit terms than the cash price the same person would have to pay to purchase the same vehicle and related goods or services. For the purpose of this subdivision, "cash price" has the meaning as defined in subdivision (e) of Section 2981 of the Civil Code.

(r) Misrepresent the authority of a representative or agent to negotiate the final terms of a transaction.

(s) Violate any law prohibiting bait and switch advertising, including, but not limited to, the guides against bait advertising set forth in Part 238 of Title 16 of the Code of Federal Regulations, as those regulations read on January 1, 1988.

(t) Make any untrue or misleading statement indicating that a vehicle is equipped with all the factory installed optional equipment the manufacturer offers, including, but not limited to, a false statement that a vehicle is "fully factory equipped."

(u) Advertise any underselling claim, such as "we have the lowest prices" or "we will beat any dealer's price," unless the lessor-retailer has conducted a recent survey showing that the lessor-retailer sells its vehicles at lower prices than any other licensee in its trade area and maintains records to adequately substantiate the claims. The substantiating records shall be made available to the department upon request.

(v) To display or offer for sale any used vehicle unless there is affixed to the vehicle the Federal Trade Commission's Buyer's Guide as required by Part 455 of Title 16 of the Code of Federal Regulations.

SEC. 3. Section 11713.1 of the Vehicle Code is amended to read:

11713.1. It is unlawful and a violation of this code for the holder of any dealer's license issued under this article to do any of the following:

(a) To advertise any specific vehicle for sale without identifying the vehicle by either its vehicle identification number or license number.

(b) To advertise the total price of a vehicle without including all costs to the purchaser at time of sale, except taxes, vehicle registration fees, certificate of compliance or noncompliance fees not exceeding thirty-five dollars ($35) pursuant to any statute, finance charges, and any dealer documentary preparation charge. The dealer documentary preparation charge shall not exceed thirty-five dollars ($35).

(c) To exclude from the newspaper display advertisement of a vehicle for sale that there will be added to the advertised total price at the time of sale, charges for sales tax, vehicle registration fees, the fee charged by the state for the issuance of any certificate of compliance or noncompliance pursuant to any statute, finance charges, and any dealer documentary preparation charge.

For purposes of this subdivision, "newspaper display advertisement" means any advertisement in a newspaper which is two or more newspaper columns in width or one newspaper column in width and more than seven inches in length.

(d) To represent the dealer documentary preparation charge or certificate of compliance or noncompliance fee, as a governmental fee.

(e) To fail to sell a vehicle to any person at the advertised total price, exclusive of taxes, vehicle registration fees, the fee charged by the state for the issuance of any certificate of compliance or noncompliance pursuant to any statute, finance charges, mobilehome escrow fees, the amount of any city, county, or city and county imposed fee or tax for a mobilehome, and any dealer documentary preparation charge, which charges shall not exceed thirty-five dollars ($35) for the documentary preparation charge and thirty-five dollars ($35) for the certificate of compliance or noncompliance pursuant to any statute, while the vehicle remains unsold, unless the advertisement states the advertised total price is good only for a specified time and the time has elapsed.

(f) To advertise for sale as new any new vehicle of a line-make for which the dealer does not hold a franchise.

This subdivision does not apply to any transaction involving a mobilehome as defined in Section 396 of this code, a recreational vehicle as defined in Section 18010.5 of the Health and Safety Code, a commercial coach as defined in Section 18012 of the Health and Safety Code, an off-highway motor vehicle subject to identification as defined in Section 38012, or a commercial vehicle as defined in Section 260.

(g) To sell a park trailer, as defined in subdivision (f) of Section 799.24 of the Civil Code, without disclosing in writing to the purchaser that a park trailer is required to be moved by a transporter or a licensed manufacturer or dealer under a permit issued by the Department of Transportation or a local authority with respect to highways under their respective jurisdictions.

(h) To advertise free merchandise, gifts, or services provided by a dealer contingent on the purchase of a vehicle. The term "free" includes merchandise or services offered for sale at a price less than the seller's cost of the merchandise or services.

(i) To advertise vehicles and related goods or services with intent not to supply reasonably expectable demand, unless the advertisement discloses a limitation of quantity.

(j) To use the term "rebate" or similar words such as "cash back" in advertising the sale of a vehicle unless the rebate is expressed in

a specific dollar amount and is in fact a rebate offered by the vehicle manufacturer or distributor directly to the retail purchaser of the vehicle or to the assignee of the retail purchaser.

(k) To require a person to pay a higher price for a vehicle and related goods or services for receiving advertised credit terms than the cash price the same person would have to pay to purchase the same vehicle and related goods or services. For the purpose of this subdivision, "cash price" has the meaning as defined in subdivision (e) of Section 2981 of the Civil Code.

(*l*) To advertise a guaranteed trade-in allowance unless the guarantee is provided by the manufacturer or distributor.

(m) To misrepresent the authority of a salesperson, representative, or agent to negotiate the final terms of a transaction.

(n) To advertise a vehicle at a specified amount above, below, or at the manufacturer's or distributor's invoice price to the dealer, unless the advertisement clearly and conspicuously states that the invoice amount may exceed the actual dealer cost because of allowances provided to the dealer by the manufacturer or distributor.

(o) To violate any law prohibiting bait and switch advertising, including, but not limited to, the guides against bait advertising set forth in Part 238 (commencing with Section 238) of Title 16 of the Code of Federal Regulations, as those regulations read on January 1, 1988.

(p) To make any untrue or misleading statement indicating that a vehicle is equipped with all the factory installed optional equipment the manufacturer offers, including, but not limited to, a false statement that a vehicle is "fully factory equipped."

(q) To affix on any new vehicle a supplemental price sticker containing a price that represents the dealer's asking price which exceeds the manufacturer's suggested retail price unless all of the following occur:

(1) The supplemental sticker clearly and conspicuously discloses in the largest print appearing on the sticker, other than the print size used for the dealer's name, that the supplemental sticker price is the dealer's asking price, or words of similar import, and that it is not the manufacturer's suggested retail price.

(2) The supplemental sticker clearly and conspicuously discloses the manufacturer's suggested retail price.

(3) The supplemental sticker lists each item which is not included in the manufacturer's suggested retail price, and discloses the additional price of each item. If the supplemental sticker price is greater than the sum of the manufacturer's suggested retail price and the price of the items added by the dealer, then the supplemental sticker price shall set forth that difference and describe it as "added mark-up."

(r) To advertise any underselling claim, such as "we have the lowest prices" or "we will beat any dealer's price," unless the dealer has conducted a recent survey showing that the dealer sells its

vehicles at lower prices than any other licensee in its trade area and maintains records to adequately substantiate the claims. The substantiating records shall be made available to the department upon request.

(s) To advertise any incentive offered by the manufacturer or distributor if the dealer is required to contribute to the cost of the incentive as a condition of participating in the incentive program, unless the dealer discloses in a clear and conspicuous manner that dealer participation may affect consumer cost.

For purposes of this subdivision "incentive" means anything of value offered to induce people to purchase a vehicle, including, but not limited to, discounts, savings claims, rebates, below-market finance rates, and free merchandise or services.

(t) To display or offer for sale any used vehicle unless there is affixed to the vehicle the Federal Trade Commission's Buyer's Guide as required by Part 455 of Title 16 of the Code of Federal Regulations.

SEC. 3.5. Section 11713.1 of the Vehicle Code is amended to read:

11713.1. It is a violation of this code for the holder of any dealer's license issued under this article to do any of the following:

(a) Advertise any specific vehicle for sale without identifying the vehicle by either its vehicle identification number or license number.

(b) Advertise the total price of a vehicle without including all costs to the purchaser at time of sale, except taxes, vehicle registration fees, certificate of compliance or noncompliance fees not exceeding thirty-five dollars ($35) pursuant to any statute, finance charges, and any dealer documentary preparation charge. The dealer documentary preparation charge shall not exceed thirty-five dollars ($35).

(c) Exclude from the newspaper display advertisement of a vehicle for sale that there will be added to the advertised total price at the time of sale, charges for sales tax, vehicle registration fees, the fee charged by the state for the issuance of any certificate of compliance or noncompliance pursuant to any statute, finance charges, and any dealer documentary preparation charge.

For purposes of this subdivision, "newspaper display advertisement" means any advertisement in a newspaper which is two or more newspaper columns in width or one newspaper column in width and more than seven inches in length.

(d) Represent the dealer documentary preparation charge or certificate of compliance or noncompliance fee, as a governmental fee.

(e) Fail to sell a vehicle to any person at the advertised total price, exclusive of taxes, vehicle registration fees, the fee charged by the state for the issuance of any certificate of compliance or noncompliance pursuant to any statute, finance charges, mobilehome escrow fees, the amount of any city, county, or city and county imposed fee or tax for a mobilehome, and any dealer documentary preparation charge, which charges shall not exceed

thirty-five dollars ($35) for the documentary preparation charge and thirty-five dollars ($35) for the certificate of compliance or noncompliance pursuant to any statute, while the vehicle remains unsold, unless the advertisement states the advertised total price is good only for a specified time and the time has elapsed.

(f) Advertise for sale as new any new vehicle of a line-make for which the dealer does not hold a franchise.

This subdivision does not apply to any transaction involving a mobilehome as defined in Section 396, a recreational vehicle as defined in Section 18010.5 of the Health and Safety Code, a commercial coach as defined in Section 18012 of the Health and Safety Code, an off-highway motor vehicle subject to identification as defined in Section 38012, or a commercial vehicle as defined in Section 260.

(g) Sell a park trailer, as defined in subdivision (f) of Section 799.24 of the Civil Code, without disclosing in writing to the purchaser that a park trailer is required to be moved by a transporter or a licensed manufacturer or dealer under a permit issued by the Department of Transportation or a local authority with respect to highways under their respective jurisdictions.

(h) Advertise free merchandise, gifts, or services provided by a dealer contingent on the purchase of a vehicle. The term "free" includes merchandise or services offered for sale at a price less than the seller's cost of the merchandise or services.

(i) Advertise vehicles and related goods or services with intent not to supply reasonably expectable demand, unless the advertisement discloses a limitation of quantity.

(j) Use the term "rebate" or similar words such as "cash back" in advertising the sale of a vehicle unless the rebate is expressed in a specific dollar amount and is in fact a rebate offered by the vehicle manufacturer or distributor directly to the retail purchaser of the vehicle or to the assignee of the retail purchaser.

(k) Require a person to pay a higher price for a vehicle and related goods or services for receiving advertised credit terms than the cash price the same person would have to pay to purchase the same vehicle and related goods or services. For the purpose of this subdivision, "cash price" has the meaning as defined in subdivision (e) of Section 2981 of the Civil Code.

(*l*) Advertise a guaranteed trade-in allowance unless the guarantee is provided by the manufacturer or distributor.

(m) Misrepresent the authority of a salesperson, representative, or agent to negotiate the final terms of a transaction.

(n) (1) Advertise that the selling price of a vehicle is above, below, or at either of the following:

(A) The manufacturer's or distributor's invoice price to a dealer.

(B) A dealer's cost.

(2) This subdivision does not apply to either of the following:

(A) Any communication occurring during face-to-face negotiations for the purchase of a specific vehicle.

(B) Any communication between a dealer and a prospective commercial purchaser that is not disseminated to the general public. For purposes of this subparagraph, a "commercial purchaser" means a dealer, lessor, lessor-retailer, manufacturer, remanufacturer, distributor, financial institution, governmental entity, or person who purchases 10 or more vehicles during a year.

(o) Violate any law prohibiting bait and switch advertising, including, but not limited to, the guides against bait advertising set forth in Part 238 (commencing with Section 238) of Title 16 of the Code of Federal Regulations, as those regulations read on January 1, 1988.

(p) Make any untrue or misleading statement indicating that a vehicle is equipped with all the factory installed optional equipment the manufacturer offers, including, but not limited to, a false statement that a vehicle is "fully factory equipped."

(q) Affix on any new vehicle a supplemental price sticker containing a price that represents the dealer's asking price which exceeds the manufacturer's suggested retail price unless all of the following occur:

(1) The supplemental sticker clearly and conspicuously discloses in the largest print appearing on the sticker, other than the print size used for the dealer's name, that the supplemental sticker price is the dealer's asking price, or words of similar import, and that it is not the manufacturer's suggested retail price.

(2) The supplemental sticker clearly and conspicuously discloses the manufacturer's suggested retail price.

(3) The supplemental sticker lists each item which is not included in the manufacturer's suggested retail price, and discloses the additional price of each item. If the supplemental sticker price is greater than the sum of the manufacturer's suggested retail price and the price of the items added by the dealer, then the supplemental sticker price shall set forth that difference and describe it as "added mark-up."

(r) Advertise any underselling claim, such as "we have the lowest prices" or "we will beat any dealer's price," unless the dealer has conducted a recent survey showing that the dealer sells its vehicles at lower prices than any other licensee in its trade area and maintains records to adequately substantiate the claims. The substantiating records shall be made available to the department upon request.

(s) Advertise any incentive offered by the manufacturer or distributor if the dealer is required to contribute to the cost of the incentive as a condition of participating in the incentive program, unless the dealer discloses in a clear and conspicuous manner that dealer participation may affect consumer cost.

For purposes of this subdivision, "incentive" means anything of value offered to induce people to purchase a vehicle, including, but not limited to, discounts, savings claims, rebates, below-market finance rates, and free merchandise or services.

(t) Display or offer for sale any used vehicle unless there is affixed

to the vehicle the Federal Trade Commission's Buyer's Guide as required by Part 455 of Title 16 of the Code of Federal Regulations.

SEC. 4. Section 12103 of the Vehicle Code is amended to read:

12103. (a) Every private party vehicle market operator shall maintain a record, for not less than one year, of all of the following information:

(1) The name of each vendor selling, exchanging, or offering for sale or exchange, any vehicle at a private party vehicle market.

(2) The vendor's driver's license number.

(3) The registration number assigned to the vehicle and the vehicle identification number.

(4) The number of the vehicle's current and valid certificate of compliance.

(5) The make, model, and color of the vehicle.

(b) That information shall be made available, upon request, to any peace officer and to any employee of the department designated by the director.

SEC. 5. Section 24007.5 of the Vehicle Code is amended to read:

24007.5. (a) (1) No auctioneer or public agency shall sell, at public auction, any vehicle specified in subdivision (a) of Section 24007, which is not in compliance with this code.

(2) Paragraph (1) does not apply to a vehicle that is sold under the conditions specified in subdivision (c), (d), (e), or (g) or is sold to a dealer or for the purpose of being wrecked or dismantled or is sold exclusively for off-highway use.

(b) Except with respect to the sale of a vehicle specified in paragraph (2) of subdivision (a), the consignor of any vehicle, specified in subdivision (b) of Section 24007, sold at public auction, shall provide the purchaser a valid certificate of compliance or certificate of noncompliance, as appropriate, issued in accordance with Section 44015 of the Health and Safety Code.

(c) Notwithstanding any other provision of this code, if, in the opinion of a public utility or public agency, the cost of repairs to a vehicle exceeds the value of the vehicle to the public utility or public agency, the public utility or public agency shall, as transferee or owner, surrender the certificates of registration, documents satisfactory to the department showing proof of ownership, and the license plates issued for the vehicle to the Department of Motor Vehicles. As used in this section, "public utility" means a public utility as described in Sections 218, 222, and 234 of the Public Utilities Code.

(d) The public utility or public agency having complied with subdivision (c) shall, upon sale of the vehicle, give to the purchaser a bill of sale which includes, in addition to any other required information, the last issued license plate number.

(e) (1) Subdivisions (a) and (b) do not apply to any judicial sale, including, but not limited to, a bankruptcy sale, conducted pursuant to a writ of execution or order of court.

(2) Subdivision (b) does not apply to any lien sale if the lienholder

does both of the following:

(A) Gives the notice required by subdivisions (a) and (b) of Section 5900.

(B) Notifies the buyer that California law requires that the buyer obtain a certificate of compliance or noncompliance and register the vehicle with the department, and that failure to comply will result in a lien against any vehicle owned by the buyer pursuant to Section 10876 of the Revenue and Taxation Code, enforceable pursuant to Section 10877 of the Revenue and Taxation Code and Article 6 (commencing with Section 9800) of Chapter 6 of Division 3. Receipt of the notice required by this subparagraph shall be evidenced by the signature of the buyer.

(f) The exceptions in this section do not apply to any requirements for registration of a vehicle pursuant to Section 4000.1, 4000.2, or 4000.3.

(g) Except as otherwise provided in subdivision (e), any public agency or auctioneer which sells, at public auction, any vehicle specified in subdivision (b) of Section 24007, which is registered to a public agency or a public utility, shall provide each bidder with a notice in writing that a certificate of compliance is required to be obtained, certifying that the vehicle complies with Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, before the vehicle may be registered in this state, unless the vehicle is sold to a dealer or for the purpose of being wrecked or dismantled or is sold exclusively for off-highway use. Prior to the sale of the vehicle, a public agency or public utility shall remove the license plates from the vehicle and surrender them to the department. The purchaser of the vehicle shall be given a bill of sale which includes, in addition to any other required information, the vehicle's last issued license plate number.

SEC. 6. Section 3.5 of this bill incorporates amendments to Section 11713.1 of the Vehicle Code proposed by both this bill and AB 1763. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 11713.1 of the Vehicle Code, and (3) this bill is enacted after AB 1763, in which case Section 3 of this bill shall not become operative.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1055

An act to amend Sections 1148 and 2413 of, and to repeal Sections 704, 1149, 1150, 1151, 1152, and 1153 of, the Civil Code, to amend Section 2051 of the Financial Code, to add Sections 18080.2, 18102.2, and 18102.3 to the Health and Safety Code, to amend Sections 250, 573, 3909, 7240, 8570, 8575, 9053, 9103, 9352, 9653, 13004, 13006, 13051, 13101, 13108, 13110, 13111, 13150, 13151, 13152, 13154, 13155, 13200, 13205, 13206, 13207, 13540, and 13541 of, to amend the heading of Part 10 (commencing with Section 330) of Division 2 of, and the heading of Chapter 4 (commencing with Section 13150) of Part 1 of Division 8 of, to amend the heading of Chapter 2 (commencing with Section 13540) of Part 2 of Division 8 of, to add Sections 331, 13005, 13107.5, 13158, 13210, and 13545 to, to add Part 5 (commencing with Section 5700) to Division 5 of, to add Chapter 4 (commencing with Section 11460) to Part 9 of Division 7 of, to add Chapter 3.5 (commencing with Section 13560) to Part 2 of Division 8 of, to repeal and add Chapter 6 (commencing with Section 6200) of Part 1 of Division 6 of, and to repeal Sections 11425, 11426, and 11427 of, the Probate Code, and to add Sections 4150.7, 5910.5, 5910.7, 9852.7, 9916.5, and 9916.7 to the Vehicle Code, relating to disposition of property, and making an appropriation therefor.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 704 of the Civil Code is repealed.

SEC. 2. Section 1148 of the Civil Code is amended to read:

1148. A gift, other than a gift in view of impending death, cannot be revoked by the giver.

SEC. 3. Section 1149 of the Civil Code is repealed.

SEC. 4. Section 1150 of the Civil Code is repealed.

SEC. 5. Section 1151 of the Civil Code is repealed.

SEC. 6. Section 1152 of the Civil Code is repealed.

SEC. 7. Section 1153 of the Civil Code is repealed.

SEC. 8. Section 2413 of the Civil Code is amended to read:

2413. (a) The superior court exercising its general jurisdiction and the superior court exercising its jurisdiction under Section 7050 of the Probate Code shall have concurrent jurisdiction over all petitions filed pursuant to this article.

(b) The court may make all orders and decrees and take all other action necessary or proper to dispose of the matters presented by the petition.

SEC. 9. Section 2051 of the Financial Code is amended to read:

2051. (a) The selling and purchasing banks shall enter into an agreement of purchase and sale which shall contain all the terms and conditions of the sale and contain proper provision for the payment

of all liabilities of the selling bank, or of the business, branch, or branch business sold, and proper provision for the assumption by the purchasing bank of all fiduciary and trust obligations of the selling bank, or business, branch, or branch business sold. The agreement may provide for the transfer of all deposits of the selling bank or of the business, branch, or branch business sold to the purchasing bank, subject to the right of every depositor of the selling bank or of the business, branch, or branch business so sold to withdraw the deposit in full on demand after such transfer, irrespective of the terms under which it was deposited with the selling bank, and may provide for the transfer of all court and private trusts so sold to the purchasing bank.

(b) If a trust is transferred under this section, the transfer is good cause for removal of the trustee under the Trust Law, Division 9 (commencing with Section 15000) of the Probate Code.

SEC. 10. Section 18080.2 is added to the Health and Safety Code, to read:

18080.2. (a) Ownership registration and title to a manufactured home, mobilehome, commercial coach, truck camper, or floating home subject to registration may be held in beneficiary form that includes a direction to transfer ownership of the manufactured home, mobilehome, commercial coach, truck camper, or floating home to a designated beneficiary on death of the owner if both of the following requirements are satisfied:

(1) Only one owner is designated.

(2) Only one TOD beneficiary is designated.

(b) Ownership registration and title issued in beneficiary form shall include, after the name of the owner, the words "transfer on death to" or the abbreviation "TOD" followed by the name of the beneficiary.

(c) During the lifetime of the owner, the signature or consent of the beneficiary is not required for any transaction relating to the manufactured home, mobilehome, commercial coach, truck camper, or floating home for which ownership registration and title in beneficiary form has been issued.

(d) The fee for transfer of title of a mobilehome to a TOD beneficiary is twenty-five dollars ($25).

(e) The fee for registering ownership of a manufactured home, mobilehome, commercial coach, truck camper, or floating home in beneficiary form is twenty-five dollars ($25).

SEC. 11. Section 18102.2 is added to the Health and Safety Code, to read:

18102.2. (a) On death of the owner of a manufactured home, mobilehome, commercial coach, truck camper, or floating home owned in beneficiary form, the manufactured home, mobilehome, commercial coach, truck camper, or floating home belongs to the surviving beneficiary, if any. If there is no surviving beneficiary, the manufactured home, mobilehome, commercial coach, truck camper, or floating home belongs to the estate of the deceased owner.

(b) Ownership registration and title issued in beneficiary form

may be revoked or the beneficiary changed at any time before the death of the owner by either of the following methods:

(1) By sale of the manufactured home, mobilehome, commercial coach, truck camper, or floating home, with proper assignment and delivery of the certificate of title to another person.

(2) By application for a change in registered owner without designation of a beneficiary or with the designation of a different beneficiary.

(c) Except as provided in subdivision (b), designation of a beneficiary in ownership registration and title issued in beneficiary form may not be changed or revoked by will, by any other instrument, by a change of circumstances, or otherwise.

(d) The beneficiary's interest in the manufactured home, mobilehome, commercial coach, truck camper, or floating home at death of the owner is subject to any contract of sale, assignment, or security interest to which the owner was subject during his or her lifetime.

(e) The surviving beneficiary may secure a transfer of ownership for the manufactured home, mobilehome, commercial coach, truck camper, or floating home upon presenting to the department all of the following:

(1) The appropriate certificate of title.

(2) A certificate under penalty of perjury stating the date and place of the death of the owner and that the declarant is entitled to the manufactured home, mobilehome, commercial coach, truck camper, or floating home as the designated beneficiary.

(3) If required by the department, a certificate of the death of the owner.

(f) After the death of the owner, the surviving beneficiary may transfer his or her interest in the manufactured home, mobilehome, commercial coach, truck camper, or floating home to another person without securing transfer of ownership into his or her own name by appropriately signing the certificate of title for the manufactured home, mobilehome, commercial coach, truck camper, or floating home and delivering the document to the transferee for forwarding to the department with appropriate fees. The transferee may secure a transfer of ownership for the manufactured home, mobilehome, commercial coach, truck camper, or floating home, upon presenting to the department (1) the certificate of title signed by the beneficiary, (2) the certificate described in paragraph (2) of subdivision (e) executed by the beneficiary under penalty of perjury; and (3) if required by the department, a certificate of death of the owner.

(g) A transfer at death pursuant to this section is effective by reason of this section and shall not be deemed to be a testamentary disposition of property. The right of the designated beneficiary to the manufactured home, mobilehome, commercial coach, truck camper, or floating home shall not be denied, abridged, or affected on the grounds that the right has not been created by a writing executed in

accordance with the laws of this state prescribing the requirements to effect a valid testamentary disposition of property.

(h) A transfer at death pursuant to this section is subject to Section 9653 of the Probate Code.

(i) If there is no surviving beneficiary, the person or persons described in Section 18102 may secure transfer of the manufactured home, mobilehome, commercial coach, truck camper, or floating home, as provided in that section.

(j) The department may prescribe forms for use pursuant to this section.

SEC. 12. Section 18102.3 is added to the Health and Safety Code, to read:

18102.3. (a) If the department makes a transfer pursuant to Section 18102.2, the department is discharged from all liability, whether or not the transfer is consistent with the beneficial ownership of the manufactured home, mobilehome, commercial coach, truck camper, or floating home transferred.

(b) The protection provided by subdivision (a) does not extend to a transfer made after the department has been served with a court order restraining the transfer. No other notice or information shown to have been available to the department shall affect its right to the protection afforded by subdivision (a).

(c) The protection provided by this section has no bearing on the rights of parties in disputes between themselves or their successors concerning the beneficial ownership of the manufactured home, mobilehome, commercial coach, truck camper, or floating home.

(d) The protection provided by this section is in addition to, and not exclusive of, any other protection provided to the department by any other provision of law.

SEC. 13. Section 250 of the Probate Code is amended to read:

250. (a) A person who feloniously and intentionally kills the decedent is not entitled to any of the following:

(1) Any property, interest, or benefit under the will of the decedent, including any general or special power of appointment conferred by the will on the killer and any nomination of the killer as executor, trustee, guardian, or conservator made by the will.

(2) Any property of the decedent by intestate succession.

(3) Any of the decedent's quasi-community property the killer would otherwise acquire under Section 101 or 102 upon the death of the decedent.

(4) Any property of the decedent under Part 5 (commencing with Section 5700) of Division 5.

(5) Any property of the decedent under Part 3 (commencing with Section 6500) of Division 6.

(b) In the cases covered by subdivision (a):

(1) The estate of the decedent passes as if the killer had predeceased the decedent and Section 6147 does not apply.

(2) Property appointed by the will of the decedent to, or for the benefit of, the killer passes as if the killer had predeceased the

decedent, and Section 1389.4 of the Civil Code does not apply.

(3) Provisions of the will of the decedent nominating the killer as executor, trustee, guardian, or conservator shall be interpreted as if the killer had predeceased the decedent.

SEC. 14. The heading of Part 10 (commencing with Section 330) of Division 2 of the Probate Code is amended to read:

PART 10. IMMEDIATE STEPS CONCERNING DECEDENT'S TANGIBLE PERSONAL PROPERTY AND SAFE DEPOSIT BOX

SEC. 15. Section 331 is added to the Probate Code, to read:

331. (a) This section applies only to a safe deposit box in a financial institution held by the decedent in the decedent's sole name, or held by the decedent and others where all are deceased. Nothing in this section affects the rights of a surviving coholder.

(b) A person who has a key to the safe deposit box may, before letters have been issued, obtain access to the safe deposit box only for the purposes specified in this section by providing the financial institution with both of the following:

(1) Proof of the decedent's death. Proof shall be provided by a certified copy of the decedent's death certificate or by a written statement of death from the coroner, treating physician, or hospital or institution where the decedent died.

(2) Reasonable proof of the identity of the person seeking access. Reasonable proof of identity is provided for the purpose of this paragraph if the requirements of Section 13104 are satisfied.

(c) The financial institution has no duty to inquire into the truth of any statement, declaration, certificate, affidavit, or document offered as proof of the decedent's death or proof of identity of the person seeking access.

(d) When the person seeking access has satisfied the requirements of subdivision (b), the financial institution shall do all of the following:

(1) Keep a record of the identity of the person.

(2) Permit the person to open the safe deposit box under the supervision of an officer or employee of the financial institution, and to make an inventory of its contents.

(3) Make a photocopy of all wills and trust instruments removed from the safe deposit box, and keep the photocopy in the safe deposit box until the contents of the box are removed by the personal representative of the estate or other legally authorized person. The financial institution may charge the person given access a reasonable fee for photocopying.

(4) Permit the person given access to remove instructions for the disposition of the decedent's remains, and, after a photocopy is made, to remove the wills and trust instruments.

(e) The person given access shall deliver all wills found in the safe deposit box to the clerk of the superior court and mail or deliver a copy to the person named in the will as executor or beneficiary as

provided in Section 8200.

(f) Except as provided in subdivision (d), the person given access shall not remove any of the contents of the decedent's safe deposit box.

SEC. 16. Section 573 of the Probate Code is amended to read:

573. (a) Except as provided in this section, no cause of action is lost by reason of the death of any person, but may be maintained by or against the person's personal representative.

(b) In an action brought under this section against a personal representative, all damages may be awarded which might have been recovered against the decedent had the decedent lived except damages awardable under Section 3294 of the Civil Code or other damages imposed primarily for the sake of example and by way of punishing the defendant.

(c) Where a person having a cause of action dies before judgment, the damages recoverable by his or her personal representative are limited to the loss or damage the decedent sustained or incurred prior to death, including any penalties or punitive or exemplary damages that the decedent would have been entitled to recover had the decedent lived but not including any damages for pain, suffering, or disfigurement.

(d) This section applies where a loss or damage occurs simultaneously with or after the death of a person who would have been liable for the loss or damage if his or her death had not preceded or occurred simultaneously with the loss or damage.

(e) Nothing in this section shall be construed as affecting the assignability of causes of action.

(f) Nothing in this section limits the right of the successor of the decedent (as defined in Section 13006) to commence or continue an action to have property that is described in an affidavit or declaration executed pursuant to Chapter 3 (commencing with Section 13100) of Part 1 of Division 8 paid, delivered, or transferred to the successor of the decedent.

SEC. 17. Section 3909 of the Probate Code is amended to read:

3909. (a) Custodial property is created and a transfer is made whenever any of the following occurs:

(1) An uncertificated security or a certificated security in registered form is either:

(A) Registered in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words:

"as custodian for _____
(Name of Minor)

under the California Uniform Transfers to Minors Act."

(B) Delivered if in certificated form, or any document necessary for the transfer of an uncertificated security is delivered, together with any necessary endorsement to an adult other than the transferor or to a trust company as custodian, accompanied by an instrument in substantially the form set forth in subdivision (b).

(2) Money is paid or delivered, or a security held in the name of a broker, financial institution, or its nominee is transferred, to a broker or financial institution for credit to an account in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words:
"as custodian for _____
(Name of Minor)
under the California Uniform Transfers to Minors Act."

(3) The ownership of a life or endowment insurance policy or annuity contract is either:

(A) Registered with the issuer in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words:
"as custodian for _____
(Name of Minor)
under the California Uniform Transfers to Minors Act."

(B) Assigned in a writing delivered to an adult other than the transferor or to a trust company whose name in the assignment is followed in substance by the words:
"as custodian for _____
(Name of Minor)
under the California Uniform Transfers to Minors Act."

(4) An irrevocable exercise of a power of appointment or an irrevocable present right to future payment under a contract is the subject of a written notification delivered to the payor, issuer, or other obligor that the right is transferred to the transferor, an adult other than the transferor, or a trust company, whose name in the notification is followed in substance by the words:
"as custodian for _____
(Name of Minor)
under the California Uniform Transfers to Minors Act."

(5) An interest in real property is recorded in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words:
"as custodian for _____
(Name of Minor)
under the California Uniform Transfers to Minors Act."

(6) A certificate of title issued by a department or agency of a state or of the United States which evidences title to tangible personal property is either:

(A) Issued in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words:
"as custodian for _____
(Name of Minor)
under the California Uniform Transfers to Minors Act."

(B) Delivered to an adult other than the transferor or to a trust company, endorsed to that person followed in substance by the words:

"as custodian for _____
(Name of Minor)
under the California Uniform Transfers to Minors Act."

(7) An interest in any property not described in paragraphs (1) through (6) is transferred to an adult other than the transferor or to a trust company by a written instrument in substantially the form set forth in subdivision (b).

(b) An instrument in the following form satisfies the requirements of subparagraph (B) of paragraph (1) and paragraph (7) of subdivision (a):

"TRANSFER UNDER THE CALIFORNIA UNIFORM TRANSFERS TO MINORS ACT

I, _____
(Name of Transferor or Name and Representative Capacity if a Fiduciary)
hereby transfer to _____,
(Name of Custodian)
as custodian for _____
(Name of Minor)
under the California Uniform Transfers to Minors Act, the following: (insert a description of the custodial property sufficient to identify it).

Dated: _____

_____
(Signature)

_____ acknowledges receipt of the property
(Name of Custodian)
described above as custodian for the minor named above under the California Uniform Transfers to Minors Act.

Dated: _____

_____"
(Signature of Custodian)

(c) A transferor shall place the custodian in control of the custodial property as soon as practicable.

SEC. 18. Part 5 (commencing with Section 5700) is added to Division 5 of the Probate Code, to read:

PART 5. GIFTS IN VIEW OF IMPENDING DEATH

5700. As used in this part, "gift" means a transfer of personal property made voluntarily and without consideration.

5701. Except as provided in this part, a gift in view of impending death is subject to the general law relating to gifts of personal

property.

5702. (a) A gift in view of impending death is one which is made in contemplation, fear, or peril of impending death, whether from illness or other cause, and with intent that it shall be revoked if the giver recovers from the illness or escapes from the peril.

(b) A reference in a statute to a gift in view of death means a gift in view of impending death.

5703. A gift made during the last illness of the giver, or under circumstances which would naturally impress the giver with an expectation of speedy death, is presumed to be a gift in view of impending death.

5704. (a) A gift in view of impending death is revoked by:

(1) The giver's recovery from the illness, or escape from the peril, under the presence of which it was made.

(2) The death of the donee before the death of the giver.

(b) A gift in view of impending death may be revoked by:

(1) The giver at any time.

(2) The giver's will if the will expresses an intention to revoke the gift.

(c) A gift in view of impending death is not affected by a previous will of the giver.

(d) Notwithstanding subdivisions (a) and (b), when the gift has been delivered to the donee, the rights of a purchaser or encumbrancer, acting before the revocation in good faith, for a valuable consideration, and without knowledge of the conditional nature of the gift, are not affected by the revocation.

5705. A gift in view of impending death is subject to Section 9653.

SEC. 19. Chapter 6 (commencing with Section 6200) of Part 1 of Division 6 of the Probate Code, as enacted by Chapter 79 of the Statutes of 1990, is repealed.

SEC. 20. Chapter 6 (commencing with Section 6200) is added to Part 1 of Division 6 of the Probate Code, to read:

CHAPTER 6. CALIFORNIA STATUTORY WILL

Article 1. Definitions and Rules of Construction

6200. Unless the provision or context clearly requires otherwise, these definitions and rules of construction govern the construction of this chapter.

6201. "Testator" means a person choosing to adopt a California statutory will.

6202. "Spouse" means the testator's husband or wife at the time the testator signs a California statutory will.

6203. "Executor" means both the person so designated in a California statutory will and any other person acting at any time as the executor or administrator under a California statutory will.

6204. "Trustee" means both the person so designated in a California statutory will and any other person acting at any time as

the trustee under a California statutory will.

6205. "Descendants" mean children, grandchildren, and their lineal descendants of all generations, with the relationship of parent and child at each generation being determined as provided in Section 6152. A reference to "descendants" in the plural includes a single descendant where the context so requires.

6206. A reference in a California statutory will to the "Uniform Gifts to Minors Act of any state" or the "Uniform Transfers to Minors Act of any state" includes both the Uniform Gifts to Minors Act of any state and the Uniform Transfers to Minors Act of any state. A reference to a "custodian" means the person so designated in a California statutory will or any other person acting at any time as a custodian under a Uniform Gifts to Minors Act or Uniform Transfers to Minors Act.

6207. Masculine pronouns include the feminine, and plural and singular words include each other, where appropriate.

6208. (a) If a California statutory will states that a person shall perform an act, the person is required to perform that act.

(b) If a California statutory will states that a person may do an act, the person's decision to do or not to do the act shall be made in the exercise of the person's fiduciary powers.

6209. Whenever a distribution under a California statutory will is to be made to a person's descendants, the property shall be divided into as many equal shares as there are then living descendants of the nearest degree of living descendants and deceased descendants of that same degree who leave descendants then living; and each living descendant of the nearest degree shall receive one share and the share of each deceased descendant of that same degree shall be divided among his or her descendants in the same manner.

6210. "Person" includes individuals and institutions.

6211. Reference to a person "if living" or who "survives me" means a person who survives the decedent by 120 hours. A person who fails to survive the decedent by 120 hours is deemed to have predeceased the decedent for the purpose of a California statutory will, and the beneficiaries are determined accordingly. If it cannot be established by clear and convincing evidence that a person who would otherwise be a beneficiary has survived the decedent by 120 hours, it is deemed that the person failed to survive for the required period. The requirement of this section that a person who survives the decedent must survive the decedent by 120 hours does not apply if the application of the 120-hour survival requirement would result in the escheat of property to the state.

Article 2. General Provisions

6220. Any individual of sound mind and over the age of 18 may execute a California statutory will under the provisions of this chapter.

6221. A California statutory will shall be executed only as follows:

(a) The testator shall complete the appropriate blanks and shall sign the will.

(b) Each witness shall observe the testator's signing and each witness shall sign his or her name in the presence of the testator.

6222. The execution of the attestation clause provided in the California statutory will by two or more witnesses satisfies Section 8220.

6223. (a) There is only one California statutory will.

(b) The California statutory will includes all of the following:

(1) The contents of the California statutory will form set out in Section 6240, excluding the questions and answers at the beginning of the California statutory will.

(2) By reference, the full texts of each of the following:

(A) The definitions and rules of construction set forth in Article 1 (commencing with Section 6200).

(B) The property disposition clauses adopted by the testator. If no property disposition clause is adopted, Section 6224 shall apply.

(C) The mandatory clauses set forth in Section 6241.

(c) Notwithstanding this section, any California statutory will or California statutory will with trust executed on a form allowed under prior law shall be governed by the law that applied prior to January 1, 1992.

6224. If more than one property disposition clause appearing in paragraphs 2 or 3 of a California statutory will is selected, no gift is made. If more than one property disposition clause in paragraph 5 of a California statutory will form is selected, or if none is selected, the residuary estate of a testator who signs a California statutory will shall be distributed to the testator's heirs as if the testator did not make a will.

6225. Only the texts of property disposition clauses and the mandatory clauses shall be considered in determining their meaning. Their titles shall be disregarded.

6226. (a) A California statutory will may be revoked and may be amended by codicil in the same manner as other wills.

(b) Any additions to or deletions from the California statutory will on the face of the California statutory will form, other than in accordance with the instructions, shall be given effect only where clear and convincing evidence shows that they would effectuate the clear intent of the testator. In the absence of such a showing, the court either may determine that the addition or deletion is ineffective and shall be disregarded, or may determine that all or a portion of the California statutory will is invalid, whichever is more likely to be consistent with the intent of the testator.

(c) Notwithstanding Section 6110, a document executed on a California statutory will form is valid as a will if all of the following requirements are shown to be satisfied by clear and convincing evidence:

(1) The form is signed by the testator.

(2) The court is satisfied that the testator knew and approved of

the contents of the will and intended it to have testamentary effect.

(3) The testamentary intent of the maker as reflected in the document is clear.

6227. (a) If after executing a California statutory will the testator's marriage is dissolved or annulled, the dissolution or annulment revokes any disposition of property made by the will to the former spouse and any nomination of the former spouse as executor, trustee, guardian, or custodian made by the will. If any disposition or nomination is revoked solely by this section, it is revived by the testator's remarriage to the former spouse.

(b) In case of revocation by dissolution or annulment:

(1) Property prevented from passing to a former spouse because of the revocation passes as if the former spouse failed to survive the testator.

(2) Provisions nominating the former spouse as executor, trustee, guardian, or custodian shall be interpreted as if the former spouse failed to survive the testator.

(c) For purposes of this section, dissolution or annulment means any dissolution or annulment that would exclude the spouse as a surviving spouse within the meaning of Section 78. A decree of legal separation which does not terminate the status of husband and wife is not a dissolution or annulment for purposes of this section.

(d) This section applies to any California statutory will, without regard to the time when the will was executed, but this section does not apply to any case where the final judgment of dissolution or annulment of marriage occurs before January 1, 1985; and, if the final judgment of dissolution or annulment of marriage occurs before January 1, 1985, the case is governed by the law that applied prior to January 1, 1985.

Article 3. Form and Full Text of Clauses

6240. The following is the California statutory will form:

QUESTIONS AND ANSWERS ABOUT THIS CALIFORNIA STATUTORY WILL

The following information, in question and answer form, is not a part of the California Statutory Will. It is designed to help you understand about Wills and to decide if this Will meets your needs. This Will is in a simple form. The complete text of each paragraph of this Will is printed at the end of the Will.

1. *What happens if I die without a Will?* If you die without a Will, what you own (your "assets") in your name alone will be divided among your spouse, children, or other relatives according to state law. The court will appoint a relative to collect and distribute your assets.

2. *What can a Will do for me?* In a Will you may designate who will receive your assets at your death. You may designate someone

(called an "executor") to appear before the court, collect your assets, pay your debts and taxes, and distribute your assets as you specify. You may nominate someone (called a "guardian") to raise your children who are under age 18. You may designate someone (called a "custodian") to manage assets for your children until they reach any age between 18 and 25.

3. *Does a Will avoid probate?* No. With or without a Will, assets in your name alone usually go through the court probate process. The court's first job is to determine if your Will is valid.

4. *What is community property?* Can I give away my share in my Will? If you are married and you or your spouse earned money during your marriage from work and wages, that money (and the assets bought with it) is community property. Your Will can only give away your one-half of community property. Your Will cannot give away your spouse's one-half of community property.

5. *Does my Will give away all of my assets?* Do all assets go through probate? No. Money in a joint tenancy bank account automatically belong to the other named owner without probate. If your spouse or child is on the deed to your house as a joint tenant, the house automatically passes to him or her. Life insurance and retirement plan benefits may pass directly to the named beneficiary. A Will does not necessarily control how these types of "nonprobate" assets pass at your death.

6. *Are there different kinds of Wills?* Yes. There are handwritten Wills, typewritten Wills, attorney-prepared Wills, and statutory Wills. All are valid if done precisely as the law requires. You should see a lawyer if you do not want to use this statutory Will or if you do not understand this form.

7. *Who may use this Will?* This Will is based on California law. It is designed only for California residents. You may use this form if you are single, married, or divorced. You must be age 18 or older and or sound mind.

8. *Are there any reasons why I should NOT use this statutory Will?* Yes. This is a simple Will. It is not designed to reduce death taxes or other taxes. Talk to a lawyer to do tax planning, especially if (i) your assets will be worth more than $600,000 at your death, (ii) you own business related assets, (iii) you want to create a trust fund for your children's education or other purposes, (iv) you own assets in some other state, (v) you want to disinherit your spouse or descendants, or (vi) you have valuable interests in pension or profit sharing plans. You should talk to a lawyer who knows about estate planning if this Will does not meet your needs. This Will treats most adopted children like natural children. You should talk to a lawyer if you have stepchildren or foster children whom you have not adopted.

9. *May I add or cross out any words on this Will?* No. If you do, the Will may be invalid or the court may ignore the crossed out or added words. You may only fill in the blanks. You may amend this Will by a separate document (called a codicil). Talk to a lawyer if you want to do something with your assets which is not allowed in this form.

10. *May I change my Will?* Yes. A Will is not effective until you die. You may make and sign a new Will. You may change your Will at any time, but only by an amendment (called a codicil). You can give away or sell your assets before your death. Your Will only acts on what you own at death.

11. *Where should I keep my Will?* After you and the witnesses sign the Will, keep your Will in your safe deposit box or other safe place. You should tell trusted family members where your Will is kept.

12. *When should I change my Will?* You should make and sign a new Will if you marry or divorce after you sign this Will. Divorce or annulment automatically cancels all property stated to pass to a former husband or wife under this Will, and revokes the designation of a former spouse as executor, custodian, or guardian. You should sign a new Will when you have more children, or if your spouse or a child dies. You may want to change your Will if there is a large change in the value of your assets.

13. *What can I do if I do not understand something in this Will?* If there is anything in this Will you do not understand, ask a lawyer to explain it to you.

14. *What is an executor?* An "executor" is the person you name to collect your assets, pay your debts and taxes, and distribute your assets as the court directs. It may be a person or it may a qualified bank or trust company.

15. *Should I require a bond?* You may require that an executor post a "bond." A bond is a form of insurance to replace assets that may be mismanaged or stolen by the executor. The cost of the bond is paid from the estate's assets.

16. *What is a guardian?* Do I need to designate one? If you have children under age 18, you should designate a guardian of their "persons" to raise them.

17. *What is a custodian?* Do I need to designate one? A "custodian" is a person you may designate to manage assets for someone (including a child) who is between ages 18 and 25 and who receives assets under your Will. The custodian manages the assets and pays as much as the custodian determines is proper for health, support, maintenance, and education. The custodian delivers what is left to the person when the person reaches the age you choose (between 18 and 25). No bond is required of a custodian.

18. *Should I ask people if they are willing to serve before I designate them as executor, guardian, or custodian?* Probably yes. Some people and banks and trust companies may not consent to serve or may not be qualified to act.

19. *What happens if I make a gift in this Will to someone and they die before I do?* A person must survive you by 120 hours to take a gift under this Will. If they do not, then the gift fails and goes with the rest of your assets. If the person who does not survive you is a relative of you or your spouse, then certain assets may go to the relative's descendants.

20. *What is a trust?* There are many kinds of trusts, including trusts

created by Wills (called "testamentary trusts") and trusts created during your lifetime (called "revocable living trusts"). Both kinds of trusts are long-term arrangements where a manager (called a "trustee") invests and manages assets for someone (called a "beneficiary") on the terms you specify. Trusts are too complicated to be used in this statutory Will. You should see a lawyer if you want to create a trust.

INSTRUCTIONS

1. *READ THE WILL.* Read the whole Will first. If you do not understand something, ask a lawyer to explain it to you.

2. *FILL IN THE BLANKS.* Fill in the blanks. Follow the instructions in the form carefully. Do not add any words to the Will (except for filling in blanks) or cross out any words.

3. *DATE AND SIGN THE WILL AND HAVE TWO WITNESSES SIGN IT.* Date and sign the Will and have two witnesses sign it. You and the witnesses should read and follow the Notice to Witnesses found at the end of this Will.

CALIFORNIA STATUTORY WILL OF

Print Your Full Name

1. Will. This is my Will. I revoke all prior Wills and codicils.

2. Specific Gift of Personal Residence (Optional—use only if you want to give your personal residence to a different person or persons than you give the balance of your assets to under paragraph 5 below). I give my interest in my principal personal residence at the time of my death (subject to mortgages and liens) as follows:

(Select one choice only and sign in the box after your choice).

a Choice One: All to my spouse, if my spouse survives me, otherwise to my descendants (my children and the descendants of my children) who survive me. ☐

b. Choice Two: Nothing to my spouse; all to my descendants (my children and the descendants of my children) who survive me. ☐

c Choice Three: All to the following person if he or she survives me (Insert the name of the person)

_____ ☐

d Choice Four: Equally among the following persons who survive me: (Insert the names of two or more persons):

_____

_____

_____

_____ ☐

3. Specific Gift of Automobiles, Household and Personal Effects (Optional—use only if you want to give automobiles and household and personal effects to a different person or persons than you give the balance of your assets to under paragraph 5 below). I give all of my automobiles (subject to loans), furniture, furnishings, household items, clothing, jewelry, and other tangible articles of a personal nature at the time of my death as follows:

(Select one choice only and sign in the box after your choice).

a. Choice One: All to my spouse, if my spouse survives me; otherwise to my descendants (my children and the descendants of my children) who survive me. ☐

b. Choice Two: Nothing to my spouse; all to my descendants (my children and the descendants of my children) who survive me.

c. Choice Three: All to the following person if he or she survives me: (Insert the name of the person):

_____

d. Choice Four: Equally among the following persons who survive me: (Insert the names of two or more persons):

_____

_____

_____

_____

4. Specific Gifts of Cash. (Optional) I make the following cash gifts to the persons named below who survive me, or to the named charity, and I sign my name in the box after each gift. If I don't sign in the box, I do not make a gift. (Sign in the box after each gift you make.)

Name of Person or Charity to receive gift (name one only—please print)	Amount of Cash Gift
	Sign your name in this box to make this gift

Name of Person or Charity to receive gift (name one only—please print)	Amount of Cash Gift
	Sign your name in this box to make this gift

Name of Person or Charity to receive gift (name one only—please print)	Amount of Cash Gift
	Sign your name in this box to make this gift

Name of Person or Charity to receive gift (name one only—please print)	Amount of Cash Gift
	Sign your name in this box to make this gift

Name of Person or Charity to receive gift (name one only—please print)	Amount of Cash Gift
	Sign your name in this box to make this gift

5. Balance of My Assets. Except for the specific gifts made in paragraphs 2, 3 and 4 above, I give the balance of my assets as follows:

(Select one choice only and sign in the box after your choice. If I sign in more than one box or if I don't sign in any box, the court will distribute my assets as if I did not make a Will).

a. Choice One: All to my spouse, if my spouse survives me; otherwise to my descendants (my children and the descendants of my children) who survive me.

b. Choice Two: Nothing to my spouse; all to my descendants (my children and the descendants of my children) who survive me.

c. Choice Three: All to the following person if he or she survives me: (Insert the name of the person):

_____

d. Choice Four: Equally among the following persons who survive me: (Insert the names of two or more persons):

_____

_____

_____

_____

6. Guardian of the Child's Person. If I have a child under age 18 and the child does not have a living parent at my death, I nominate the individual named below as First Choice as guardian of the person of such child (to raise the child). If the First Choice does not serve, then I nominate the Second Choice, and then the Third Choice, to serve. Only an individual (not a bank or trust company) may serve.

Name of First Choice for Guardian of the Person

Name of Second Choice for Guardian of the Person

Name of Third Choice for Guardian of the Person

7. Special Provision for Property of Persons Under Age 25. (Optional—Unless you use this paragraph, assets that go to a child or other person who is under age 18 may be given to the parent of the person, or to the Guardian named in paragraph 6 above as guardian of the person until age 18, and the court will require a bond; and assets that go to a child or other person who is age 18 or older will be given outright to the person. By using this paragraph you may provide that a custodian will hold the assets for the person until the person reaches any age between 18 and 25 which you choose). If a beneficiary of this Will is between age 18 and 25, I nominate the individual or bank or trust company named below as First Choice as custodian of the property. If the First Choice does not serve, then I nominate the Second Choice, and then the Third Choice, to serve.

Name of First Choice for Custodian of Assets

Name of Second Choice for Custodian of Assets

Name of Third Choice for Custodian of Assets

Insert any age between 18 and 25 as the age for the person to receive the property: (If you do not choose an age, age 18 will apply.)	

8. I nominate the individual or bank or trust company named below as First Choice as executor. If the First Choice does not serve, then I nominate the Second Choice, and then the Third Choice, to serve.

Name of First Choice for Executor

Name of Second Choice for Executor

Name of Third Choice for Executor

9. Bond. My signature in this box means a bond is not required for any person named as executor. A bond may be required if I do not sign in this box:

No bond shall be required. [ ]

(Notice: You must sign this Will in the presence of two (2) adult witnesses. The witnesses must sign their names in your presence and in each other's presence. You must first read to them the following two sentences.)

This is my Will. I ask the persons who sign below to be my witnesses.

Signed on _____ (date) at _____ (city), California.

[ ]

Signature of Maker of Will

(Notice to Witnesses: Two (2) adults must sign as witnesses. Each witness must read the following clause before signing. The witnesses should not receive assets under this Will.)

Each of us declares under penalty of perjury under the laws of the State of California that the following is true and correct:

a. On the date written below the maker of this Will declared to us that this instrument was the maker's Will and requested us to act as witnesses to it;

b. We understand this is the maker's Will;

c. The maker signed this Will in our presence, all of us being present at the same time;

d. We now, at the maker's request, and in the maker's and each other's presence, sign below as witnesses;

e. We believe the maker is of sound mind and memory;

f. We believe that this Will was not procured by duress, menace, fraud or undue influence;

g. The maker is age 18 or older; and

h. Each of us is now age 18 or older, is a competent witness, and resides at the address set forth after his or her name.

Dated: _____, _____

Signature of witness	Signature of witness
Print name here:	Print name here:
_____	_____
Residence Address:	Residence Address:
_____	_____
_____	_____

AT LEAST TWO WITNESSES MUST SIGN
NOTARIZATION ALONE IS NOT SUFFICIENT

6241. The mandatory clauses of the California statutory will form are as follows:

(a) *Intestate Disposition.* If the testator has not made an effective disposition of the residuary estate, the executor shall distribute it to the testator's heirs at law, their identities and respective shares to be determined according to the laws of the State of California in effect on the date of the testator's death relating to intestate succession of property not acquired from a predeceased spouse.

(b) *Powers of Executor.*

(1) In addition to any powers now or hereafter conferred upon executors by law, including all powers granted under the Independent Administration of Estates Act, the executor shall have the power to:

(A) Sell estate assets at public or private sale, for cash or on credit terms.

(B) Lease estate assets without restriction as to duration.

(C) Invest any surplus moneys of the estate in real or personal property, as the executor deems advisable.

(2) The executor may distribute estate assets otherwise distributable to a minor beneficiary to one of the following:

(A) The guardian of the minor's person or estate.

(B) Any adult person with whom the minor resides and who has the care, custody, or control of the minor.

(C) A custodian of the minor under the Uniform Transfers to Minors Act as designated in the California statutory will form.

The executor is free of liability and is discharged from any further accountability for distributing assets in compliance with the provisions of this paragraph.

(3) On any distribution of assets from the estate, the executor shall have the discretion to partition, allot, and distribute the assets in the following manner:

(A) In kind, including undivided interest in an asset or in any part of it.

(B) Partly in cash and partly in kind.

(C) Entirely in cash.

If a distribution is being made to more than one beneficiary, the executor shall have the discretion to distribute assets among them on a pro rata or non pro rata basis, with the assets valued as of the date of distribution.

(c) *Powers of Guardian.* A guardian of the person nominated in the California statutory will shall have the same authority with respect to the person of the ward as a parent having legal custody of a child would have. All powers granted to guardians in this paragraph may be exercised without court authorization.

6242. (a) Except as specifically provided in this chapter, a California statutory will shall include only the texts of the property disposition clauses and the mandatory clauses as they exist on the day the California statutory will is executed.

(b) Sections 6205, 6206, and 6227 apply to every California

statutory will, including those executed before January 1, 1985. Section 6211 applies only to California statutory wills executed after July 1, 1991.

(c) Notwithstanding Section 6222, and except as provided in subdivision (b), a California statutory will is governed by the law that applied prior to January 1, 1992, if the California statutory will is executed on a from that (1) was prepared for use under former Sections 56 to 56.14, inclusive, or former Sections 6200 to 6248, inclusive, of the Probate Code, and (2) satisfied the requirements of law that applied prior to January 1, 1992.

(d) A California statutory will does not fail to satisfy the requirements of subdivision (a) merely because the will is executed on a form that incorporates the mandatory clauses of Section 6241 that refer to former Section 1120.2. If the will incorporates the mandatory clauses with a reference to former Section 1120.2, the trustee has the powers listed in Article 2 (commencing with Section 16220) of Chapter 2 of Part 4 of Division 9.

6243. Except as specifically provided in this chapter, the general law of California applies to a California statutory will.

SEC. 21. Section 7240 of the Probate Code is amended to read:

7240. An appeal may be taken from the making of, or the refusal to make, any of the following orders:

(a) Granting or revoking letters, but not letters of special administration or letters of special administration with general powers.

(b) Admitting a will to probate or revoking the probate of a will.

(c) Setting aside a small estate under Section 6609.

(d) Setting apart a probate homestead or property claimed to be exempt from enforcement of a money judgment.

(e) Granting, modifying, or terminating a family allowance.

(f) Directing or authorizing the sale or conveyance or confirming the sale of property.

(g) Directing or authorizing the granting of an option to purchase property.

(h) Adjudicating the merits of a claim under Chapter 11 (commencing with Section 9860) of Part 5.

(i) Allocating debts under Chapter 3 (commencing with Section 11440) of Part 9.

(j) Settling an account of a personal representative.

(k) Instructing or directing a personal representative.

(*l*) Directing or allowing the payment of a debt, claim, devise, attorney's fee, or personal representative's compensation.

(m) Determining the persons to whom distribution should be made.

(n) Distributing property.

(o) Determining that property passes to, or confirming that property belongs to, the surviving spouse under Section 13656.

(p) Authorizing a personal representative to invest or reinvest surplus money under Section 9732.

SEC. 22. Section 8570 of the Probate Code is amended to read:

8570. As used in this article, "nonresident personal representative" means a nonresident of this state appointed as personal representative, or a resident of this state appointed as personal representative who later removes from and resides without this state.

SEC. 23. Section 8575 of the Probate Code is amended to read:

8575. Proof of compliance with Section 8574 shall be made in the following manner:

(a) In the event of service by mail, by certificate of the Secretary of State, under official seal, showing the mailing. The certificate shall be filed with the court from which process issued.

(b) In the event of personal service outside this state, by the return of any duly constituted public officer qualified to serve like process, or notice of motion, of and in the jurisdiction where the nonresident personal representative is found, showing the service to have been made. The return shall be attached to the original summons, or notice of motion, and filed with the court from which process issued.

SEC. 24. Section 9053 of the Probate Code is amended to read:

9053. (a) If the personal representative believes that notice to a particular creditor is or may be required by this chapter and gives notice based on that belief, the personal representative is not liable to any person for giving the notice, whether or not required by this chapter.

(b) If the personal representative fails to give notice required by this chapter, the personal representative is not liable to any person for the failure, unless a creditor establishes all of the following:

(1) The failure was in bad faith.

(2) Neither the creditor nor the attorney representing the creditor in the matter had actual knowledge of the administration of the estate before expiration of the time for filing a claim, and payment would have been made on the creditor's claim in the course of administration if the claim had been properly filed.

(3) Within 16 months after letters were first issued to a general personal representative, the creditor did both of the following:

(A) Filed a petition requesting that the court in which the estate was administered make an order determining the liability of the personal representative under this subdivision.

(B) At least 30 days before the hearing on the petition, caused notice of the hearing and a copy of the petition to be served on the personal representative in the manner provided in Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure.

(c) Nothing in this section affects the liability of the estate, if any, for the claim of a creditor, and the personal representative is not liable for the claim to the extent it is paid out of the estate or could be paid out of the estate pursuant to Section 9103.

(d) Nothing in this chapter imposes a duty on the personal

representative to make a search for creditors of the decedent.

SEC. 25. Section 9103 of the Probate Code is amended to read:

9103. (a) Upon petition by a creditor and notice of hearing given as provided in Section 1220, the court may allow a claim to be filed after expiration of the time for filing a claim if the creditor establishes that either of the following conditions is satisfied:

(1) Neither the creditor nor the attorney representing the creditor in the matter had actual knowledge of the administration of the estate more than 15 days before expiration of the time provided in Section 9100, and the creditor's petition was filed within 30 days after either the creditor or the creditor's attorney had actual knowledge of the administration whichever occurred first.

(2) Neither the creditor nor the attorney representing the creditor in the matter had knowledge of the existence of the claim more than 15 days before expiration of the time provided in Section 9100, and the creditor's petition was filed within 30 days after either the creditor or the creditor's attorney had knowledge of the existence of the claim whichever occurred first.

(b) The court shall not allow a claim to be filed under this section after the earlier of the following times:

(1) The time the court makes an order for final distribution of the estate.

(2) One year after the time letters are first issued to a general personal representative. Nothing in this paragraph authorizes allowance or approval of a claim barred by, or extends the time provided in, Section 353 of the Code of Civil Procedure.

(c) The court may condition the claim on terms that are just and equitable, and may require the appointment or reappointment of a personal representative if necessary. The court may deny the creditor's petition if a payment to general creditors has been made and it appears that the filing or establishment of the claim would cause or tend to cause unequal treatment among creditors.

(d) Regardless of whether the claim is later established in whole or in part, payments otherwise properly made before a claim is filed under this section are not subject to the claim. Except to the extent provided in Section 9392 and subject to Section 9053, the personal representative or payee is not liable on account of the prior payment. Nothing in this subdivision limits the liability of a person who receives a preliminary distribution of property to restore to the estate an amount sufficient for payment of the distributee's proper share of the claim, not exceeding the amount distributed.

SEC. 26. Section 9352 of the Probate Code is amended to read:

9352. (a) The filing of a claim or a petition under Section 9103 to file a claim tolls the statute of limitations otherwise applicable to the claim until allowance, approval, or rejection.

(b) The allowance or approval of a claim in whole or in part further tolls the statute of limitations during the administration of the estate as to the part allowed or approved.

SEC. 27. Section 9653 of the Probate Code is amended to read:

9653. (a) On application of a creditor of the decedent or the estate, the personal representative shall commence and prosecute an action for the recovery of real or personal property of the decedent for the benefit of creditors if the personal representative has insufficient assets to pay creditors and the decedent during lifetime did any of the following with respect to the property:

(1) Made a conveyance of the property, or any right or interest in the property, that is fraudulent as to creditors under the Uniform Fraudulent Transfer Act (Chapter 1 (commencing with Section 3439) of Title 2 of Part 2 of Division 4 of the Civil Code).

(2) Made a gift of the property in view of impending death.

(3) Made a direction to transfer a vehicle, undocumented vessel, manufactured home, mobilehome, commercial coach, truck camper, or floating home to a designated beneficiary on the decedent's death pursuant to Section 18102.2 of the Health and Safety Code, or Section 5910.5 or 9916.5 of the Vehicle Code, and the property has been transferred as directed.

(b) A creditor making application under this section shall pay such part of the costs and expenses of the suit and attorney's fees, or give an undertaking to the personal representative for that purpose, as the personal representative and the creditor agree, or, absent an agreement, as the court or judge orders.

(c) The property recovered under this section shall be sold for the payment of debts in the same manner as if the decedent had died seized or possessed of the property. The proceeds of the sale shall be applied first to payment of the costs and expenses of suit, including attorney's fees, and then to payment of the debts of the decedent in the same manner as other property in possession of the personal representative. After all the debts of the decedent have been paid, the remainder of the proceeds shall be paid to the person from whom the property was recovered. The property may be sold in its entirety or in such portion as necessary to pay the debts.

SEC. 28. Section 11425 of the Probate Code is repealed.

SEC. 29. Section 11426 of the Probate Code is repealed.

SEC. 30. Section 11427 of the Probate Code is repealed.

SEC. 31. Chapter 4 (commencing with Section 11460) is added to Part 9 of Division 7 of the Probate Code, to read:

CHAPTER 4. DEBTS THAT ARE CONTINGENT, DISPUTED, OR NOT DUE

11460. As used in this chapter:

(a) A debt is "contingent" if it is established under Part 4 (commencing with Section 9000) in either a fixed or an uncertain amount and will become absolute on occurrence of a stated event other than the passage of time. The term includes a secured obligation for which there may be recourse against property in the estate, other than the property that is the security, if the security is insufficient.

(b) A debt is "disputed" if it is a claim rejected in whole or in part under Part 4 (commencing with Section 9000) and is not barred under Section 9353 as to the part rejected.

(c) A debt is "not due" if it is established under Part 4 (commencing with Section 9000) and will become due on the passage of time. The term includes a debt payable in installments.

11461. When all other debts have been paid and the estate is otherwise in a condition to be closed, on petition by an interested person, the court may make or modify an order or a combination of orders under this chapter that the court in its discretion determines is appropriate to provide adequately for a debt that is contingent, disputed, or not due, if the debt becomes absolute, established, or due. Notice of the hearing on the petition shall be given as provided in Section 1220 to the creditor whose debt is contingent, disputed, or not due, as well as to the persons provided in Section 11601.

11462. Notwithstanding any other provision of this chapter, if the court determines that all interested persons agree to the manner of providing for a debt that is contingent, disputed, or not due and that the agreement reasonably protects all interested persons and will not extend administration of the estate unreasonably, the court shall approve the agreement.

11463. The court may order an amount deposited in a financial institution, as provided in Chapter 3 (commencing with Section 9700) of Part 5, that would be payable if a debt that is contingent, disputed, or not due, were absolute, established, or due. The order shall provide that the amount deposited is subject to withdrawal only upon authorization of the court, to be paid to the creditor when the debt becomes absolute, established, or due, or to be distributed in the manner provided in Section 11642 if the debt does not become absolute or established.

11464. (a) The court may order property in the estate distributed to a person entitled to it under the final order for distribution, if the person files with the court an assumption of liability for a contingent or disputed debt as provided in subdivision (b). The court may impose any other conditions the court in its discretion determines are just, including that the distributee give a security interest in all or part of the property distributed or that the distributee give a bond in an amount determined by the court.

(b) As a condition for an order under subdivision (a), each distributee shall file with the court a signed and acknowledged agreement assuming personal liability for the contingent or disputed debt and consenting to jurisdiction within this state for the enforcement of the debt if it becomes absolute or established. The personal liability of each distributee shall not exceed the fair market value on the date of distribution of the property received by the distributee, less the amount of liens and encumbrances. If there is more than one distributee, the personal liability of the distributees is joint and several.

(c) If the debt becomes absolute or established, it may be

enforced against each distributee in the same manner as it could have been enforced against the decedent if the decedent had not died. In an action based on the debt, the distributee may assert any defense, cross-complaint, or setoff that would have been available to the decedent if the decedent had not died.

(d) The statute of limitations applicable to a contingent debt is tolled from the time the creditor's claim is filed until 30 days after the order for distribution becomes final. The signing of an agreement under subdivision (b) neither extends nor revives any limitation period.

11465. (a) The court may order that a trustee be appointed to receive payment for a debt that is contingent, disputed, or not due. The court in determining the amount paid to the trustee shall compute the present value of the debt, giving consideration to a reasonable return on the amount to be invested. The trustee shall invest the payment in investments that would be proper for a personal representative or as authorized in the order.

(b) The trustee shall pay the debt as provided in the order. On completion of payment, any excess in possession of the trustee shall be distributed in the manner provided in Section 11642.

11466. The court may order property in the estate distributed to a person entitled to it under the final order for distribution, if the person gives a bond conditioned on payment by the person of the amount of a contingent or disputed debt that becomes absolute or established. The amount of the bond shall be determined by the court, not to exceed the fair market value on the date of distribution of the property received by the distributee, less the amount of liens and encumbrances. In the case of a disputed debt or in the case of a contingent debt where litigation is required to establish the contingency, the cost of the bond is recoverable from the unsuccessful party as a cost of litigation.

11467. The court may order that the administration of the estate continue until the contingency, dispute, or passage of time of a debt that is contingent, disputed, or not due is resolved.

SEC. 32. Section 13004 of the Probate Code is amended to read:

13004. (a) "Particular item of property" means:

(1) Particular personal property of the decedent which is sought to be collected, received, or transferred by the successor of the decedent under Chapter 3 (commencing with Section 13100).

(2) Particular real property of the decedent, or particular real and personal property of the decedent, for which the successor of the decedent seeks a court order determining succession under Chapter 4 (commencing with Section 13150).

(3) Particular real property of the decedent with respect to which the successor of the decedent files an affidavit of succession under Chapter 5 (commencing with Section 13200).

(b) Subject to subdivision (a), "particular item of property" includes all interests specified in Section 62.

SEC. 33. Section 13005 is added to the Probate Code, to read:

13005. "Property of the decedent," "decedent's property," "money due the decedent," and similar phrases, include property that becomes part of the decedent's estate on the decedent's death, whether by designation of the estate as beneficiary under an insurance policy on the decedent's life or under the decedent's retirement plan, or otherwise.

SEC. 34. Section 13006 of the Probate Code is amended to read:

13006. "Successor of the decedent" means:

(a) If the decedent died leaving a will, the sole beneficiary or all of the beneficiaries who succeeded to a particular item of property of the decedent under the decedent's will. For the purposes of this part, a trust is a beneficiary under the decedent's will if the trust succeeds to the particular item of property under the decedent's will.

(b) If the decedent died without a will, the sole person or all of the persons who succeeded to the particular item of property of the decedent under Sections 6401 and 6402 or, if the law of a sister state or foreign nation governs succession to the particular item of property, under the law of the sister state or foreign nation.

SEC. 35. Section 13051 of the Probate Code is amended to read:

13051. For the purposes of this part:

(a) The guardian or conservator of the estate of a person entitled to any of the decedent's property may act on behalf of the person without authorization or approval of the court in which the guardianship or conservatorship proceeding is pending.

(b) The trustee of a trust may act on behalf of the trust. In the case of a trust that is subject to continuing jurisdiction of the court pursuant to Chapter 4 (commencing with Section 17300) of Part 5 of Division 9, the trustee may act on behalf of the trust without the need to obtain approval of the court.

(c) If the decedent's will authorizes a custodian under the Uniform Gifts to Minors Act or the Uniform Transfers to Minors Act of any state to receive a devise to a beneficiary, the custodian may act on behalf of the beneficiary until such time as the custodianship terminates.

(d) A sister state personal representative may act on behalf of the beneficiaries as provided in Chapter 3 (commencing with Section 12570) of Part 13 of Division 7.

(e) The attorney in fact authorized under a durable power of attorney may act on behalf of the beneficiary giving the power of attorney.

SEC. 36. Section 13101 of the Probate Code is amended to read:

13101. (a) To collect money, receive tangible personal property, or have evidences of a debt, obligation, interest, right, security, or chose in action transferred under this chapter, an affidavit or a declaration under penalty of perjury under the laws of this state shall be furnished to the holder of the decedent's property stating all of the following:

(1) The decedent's name.

(2) The date and place of the decedent's death.

(3) "At least 40 days have elapsed since the death of the decedent, as shown in a certified copy of the decedent's death certificate attached to this affidavit or declaration."

(4) Either of the following, as appropriate:

(A) "No proceeding is now being or has been conducted in California for administration of the decedent's estate."

(B) "The decedent's personal representative has consented in writing to the payment, transfer, or delivery to the affiant or declarant of the property described in the affidavit or declaration."

(5) "The current gross fair market value of the decedent's real and personal property in California, excluding the property described in Section 13050 of the California Probate Code, does not exceed sixty thousand dollars ($60,000)."

(6) A description of the property of the decedent that is to be paid, transferred, or delivered to the affiant or declarant.

(7) The name of the successor of the decedent (as defined in Section 13006 of the California Probate Code) to the described property.

(8) Either of the following, as appropriate:

(A) "The affiant or declarant is the successor of the decedent (as defined in Section 13006 of the California Probate Code) to the decedent's interest in the described property."

(B) "The affiant or declarant is authorized under Section 13051 of the California Probate Code to act on behalf of the successor of the decedent (as defined in Section 13006 of the California Probate Code) with respect to the decedent's interest in the described property."

(9) "No other person has a superior right to the interest of the decedent in the described property."

(10) "The affiant or declarant requests that the described property be paid, delivered, or transferred to the affiant or declarant."

(11) "The affiant or declarant affirms or declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct."

(b) Where more than one person executes the affidavit or declaration under this section, the statements required by subdivision (a) shall be modified as appropriate to reflect that fact.

(c) If the particular item of property to be transferred under this chapter is a debt or other obligation secured by a lien on real property and the instrument creating the lien has been recorded in the office of the county recorder of the county where the real property is located, the affidavit or declaration shall satisfy the requirements both of this section and of Section 13106.5.

(d) A certified copy of the decedent's death certificate shall be attached to the affidavit or declaration.

(e) If the decedent's personal representative has consented to the payment, transfer, or delivery of the described property to the affiant or declarant, a copy of the consent and of the personal

representative's letters shall be attached to the affidavit or declaration.

SEC. 37. Section 13107.5 is added to the Probate Code, to read:

13107.5. Where the money or property claimed in an affidavit or declaration executed under this chapter is the subject of a pending action or proceeding in which the decedent was a party, the successor of the decedent shall, without procuring letters of administration or awaiting probate of the will, be substituted as a party in place of the decedent by making a motion under Section 385 of the Code of Civil Procedure. The successor of the decedent shall file the affidavit or declaration with the court when the motion is made. For the purpose of Section 385 of the Code of Civil Procedure, a successor of the decedent who complies with this chapter shall be considered as a successor in interest of the decedent.

SEC. 38. Section 13108 of the Probate Code is amended to read:

13108. (a) The procedure provided by this chapter may be used only if one of the following requirements is satisfied:

(1) No proceeding for the administration of the decedent's estate is pending or has been conducted in this state.

(2) The decedent's personal representative consents in writing to the payment, transfer, or delivery of the property described in the affidavit or declaration pursuant to this chapter.

(b) Payment, delivery, or transfer of a decedent's property pursuant to this chapter does not preclude later proceedings for administration of the decedent's estate.

SEC. 39. Section 13110 of the Probate Code is amended to read:

13110. (a) Except as provided in subdivision (b), each person to whom payment, delivery, or transfer of the decedent's property is made under this chapter is personally liable to the extent provided in Section 13112 to any person having a superior right by testate or intestate succession from the decedent.

(b) In addition to any other liability the person has under this section and Sections 13109, 13111, and 13112, any person who fraudulently secures the payment, delivery, or transfer of the decedent's property under this chapter is liable to the person having such a superior right for three times the fair market value of the property. For the purposes of this subdivision, the "fair market value of the property" is the fair market value of the property paid, delivered, or transferred to the person liable under this subdivision, valued as of the time the person liable under this subdivision presents the affidavit or declaration under this chapter to the holder of the decedent's property, less any liens and encumbrances on that property at that time.

(c) An action to impose liability under this section is forever barred three years after the affidavit or declaration is presented under this chapter to the holder of the decedent's property, or three years after the discovery of the fraud, whichever is later. The three-year period specified in this subdivision is not tolled for any reason.

SEC. 40. Section 13111 of the Probate Code is amended to read:

13111. (a) Subject to the provisions of this section, if proceedings for the administration of the decedent's estate are commenced in this state, or if the decedent's personal representative has consented to the payment, transfer, or delivery of the decedent's property under this chapter and the personal representative later requests that the property be restored to the estate, each person to whom payment, delivery, or transfer of the decedent's property is made under this chapter is liable for:

(1) The restitution of the property to the estate if the person still has the property, together with (A) the net income the person received from the property and (B) if the person encumbered the property after it was delivered or transferred to the person, the amount necessary to satisfy the balance of the encumbrance as of the date the property is restored to the estate.

(2) The restitution to the estate of the fair market value of the property if the person no longer has the property, together with (A) the net income the person received from the property and (B) interest on the fair market value of the property from the date of disposition at the rate payable on a money judgment. For the purposes of this subdivision, the "fair market value of the property" is the fair market value, determined as of the time of the disposition of the property, of the property paid, delivered, or transferred to the person under this chapter, less any liens and encumbrances on the property at that time.

(b) Subject to subdivision (c) and subject to any additional liability the person has under Sections 13109 to 13112, inclusive, if the person fraudulently secured the payment, delivery, or transfer of the decedent's property under this chapter, the person is liable under this section for restitution to the decedent's estate of three times the fair market value of the property. For the purposes of this subdivision, the "fair market value of the property" is the fair market value, determined as of the time the person liable under this subdivision presents the affidavit or declaration under this chapter, of the property paid, delivered, or transferred to the person under this chapter, less the amount of any liens and encumbrances on the property at that time.

(c) The property and amount required to be restored to the estate under this section shall be reduced by any property or amount paid by the person to satisfy a liability under Section 13109 or 13110.

(d) An action to enforce the liability under this section may be brought only by the personal representative of the estate of the decedent. In an action to enforce the liability under this section, the court's judgment may enforce the liability only to the extent necessary to protect the interests of the heirs, devisees, and creditors of the decedent.

(e) An action to enforce the liability under this section is forever barred three years after presentation of the affidavit or declaration under this chapter to the holder of the decedent's property, or three

years after the discovery of the fraud, whichever is later. The three-year period specified in this subdivision is not tolled for any reason.

(f) In the case of a nondomiciliary decedent, restitution under this section shall be made to the estate in an ancillary administration proceeding.

SEC. 41. The heading of Chapter 4 (commencing with Section 13150) of Part 1 of Division 8 of the Probate Code is amended to read:

CHAPTER 4. COURT ORDER DETERMINING SUCCESSION TO PROPERTY

SEC. 42. Section 13150 of the Probate Code is amended to read:

13150. The procedure provided by this chapter may be used only if one of the following requirements is satisfied:

(a) No proceeding is being or has been conducted in this state for administration of the decedent's estate.

(b) The decedent's personal representative consents in writing to use of the procedure provided by this chapter to determine that real property of the decedent is property passing to the petitioners.

SEC. 43. Section 13151 of the Probate Code is amended to read:

13151. Exclusive of the property described in Section 13050, if a decedent dies leaving real property in this state and the gross value of the decedent's real and personal property in this state does not exceed sixty thousand dollars ($60,000) and 40 days have elapsed since the death of the decedent, the successor of the decedent to an interest in a particular item of property that is real property, without procuring letters of administration or awaiting the probate of the will, may file a petition in the superior court of the county in which the estate of the decedent may be administered requesting a court order determining that the petitioner has succeeded to that real property. A petition under this chapter may include an additional request that the court make an order determining that the petitioner has succeeded to personal property described in the petition.

SEC. 44. Section 13152 of the Probate Code is amended to read:

13152. (a) The petition shall be verified by each petitioner, shall contain a request that the court make an order under this chapter determining that the property described in the petition is property passing to the petitioner, and shall state all of the following:

(1) The facts necessary to determine that the petition is filed in the proper county.

(2) The gross value of the decedent's real and personal property in this state, excluding the property described in Section 13050, as shown by the inventory and appraisal attached to the petition, does not exceed sixty thousand dollars ($60,000).

(3) A description of the particular item of real property in this state which the petitioner alleges is property of the decedent passing to the petitioner, and a description of the personal property which the petitioner alleges is property of the decedent passing to the

petitioner if the requested order also is to include a determination that the described personal property is property passing to the petitioner.

(4) The facts upon which the petitioner bases the allegation that the described property is property passing to the petitioner.

(5) Either of the following, as appropriate:

(A) A statement that no proceeding is being or has been conducted in this state for administration of the decedent's estate.

(B) A statement that the decedent's personal representative has consented in writing to use of the procedure provided by this chapter.

(6) Whether estate proceedings for the decedent have been commenced in any other jurisdiction and, if so, where those proceedings are pending or were conducted.

(7) The name, age, address, and relation to the decedent of each heir and devisee of the decedent, the names and addresses of all persons named as executors of the will of the decedent, and, if the petitioner is the trustee of a trust that is a devisee under the will of the decedent, the names and addresses of all persons interested in the trust, as determined in cases of future interests pursuant to paragraph (1), (2), or (3) of subdivision (a) of Section 15804, so far as known to any petitioner.

(8) The name and address of each person serving as guardian or conservator of the estate of the decedent at the time of the decedent's death, so far as known to any petitioner.

(b) There shall be attached to the petition an inventory and appraisal in the form set forth in Section 8802 of the decedent's real and personal property in this state, excluding the property described in Section 13050. The appraisal shall be made by a probate referee selected by the petitioner from those probate referees appointed by the Controller under Section 400 to appraise property in the county where the real property is located. The appraisal shall be made as provided in Part 3 (commencing with Section 8800) of Division 7. The petitioner may appraise the assets which a personal representative could appraise under Section 8901.

(c) If the petitioner bases his or her claim to the described property upon the will of the decedent, a copy of the will shall be attached to the petition.

(d) If the decedent's personal representative has consented to use of the procedure provided by this chapter, a copy of the consent shall be attached to the petition.

SEC. 45. Section 13154 of the Probate Code is amended to read:

13154. (a) If the court makes the determinations required under subdivision (b), the court shall issue an order determining (1) that real property, to be described in the order, of the decedent is property passing to the petitioners and the specific property interest of each petitioner in the described property and (2) if the petition so requests, that personal property, to be described in the order, of the decedent is property passing to the petitioners and the specific

property interest of each petitioner in the described property.

(b) The court may make an order under this section only if the court makes all of the following determinations:

(1) The gross value of the decedent's real and personal property in this state, excluding the property described in Section 13050, does not exceed sixty thousand dollars ($60,000).

(2) Not less than 40 days have elapsed since the death of the decedent.

(3) Whichever of the following is appropriate:

(A) No proceeding is being or has been conducted in this state for administration of the decedent's estate.

(B) The decedent's personal representative has consented in writing to use of the procedure provided by this chapter.

(4) The property described in the order is property of the decedent passing to the petitioner.

(c) If the petition has attached an inventory and appraisal that satisfies the requirements of subdivision (b) of Section 13152, the determination required by paragraph (1) of subdivision (b) of this section shall be made on the basis of the verified petition and the attached inventory and appraisal, unless evidence is offered by a person opposing the petition that the gross value of the decedent's real and personal property in this state, excluding the property described in Section 13050, exceeds sixty thousand dollars ($60,000).

SEC. 46. Section 13155 of the Probate Code is amended to read:

13155. Upon becoming final, an order under this chapter determining that property is property passing to the petitioner is conclusive on all persons, whether or not they are in being.

SEC. 47. Section 13158 is added to the Probate Code, to read:

13158. Nothing in this chapter excuses compliance with Chapter 3 (commencing with Section 13100) by the holder of the decedent's personal property if an affidavit or declaration is furnished as provided in that chapter.

SEC. 48. Section 13200 of the Probate Code is amended to read:

13200. (a) No sooner than six months from the death of a decedent, a person or persons claiming as successor of the decedent to a particular item of property that is real property may file in the superior court in the county in which the decedent was domiciled at the time of death, or if the decedent was not domiciled in this state at the time of death, then in any county in which real property of the decedent is located, an affidavit in the form prescribed by the Judicial Council pursuant to Section 1001 stating all of the following:

(1) The name of the decedent.

(2) The date and place of the decedent's death.

(3) A legal description of the real property and the interest of the decedent therein.

(4) The name and address of each person serving as guardian or conservator of the estate of the decedent at the time of the decedent's death, so far as known to the affiant.

(5) "The gross value of all real property in the decedent's estate

located in California, as shown by the inventory and appraisal attached to this affidavit, excluding the real property described in Section 13050 of the California Probate Code, does not exceed ten thousand dollars ($10,000)."

(6) "At least six months have elapsed since the death of the decedent as shown in a certified copy of decedent's death certificate attached to this affidavit."

(7) Either of the following, as appropriate:

(A) "No proceeding is now being or has been conducted in California for administration of the decedent's estate."

(B) "The decedent's personal representative has consented in writing to use of the procedure provided by this chapter."

(8) "Funeral expenses, expenses of last illness, and all unsecured debts of the decedent have been paid."

(9) "The affiant is the successor of the decedent (as defined in Section 13006 of the Probate Code) and to the decedent's interest in the described property, and no other person has a superior right to the interest of the decedent in the described property."

(10) "The affiant declares under penalty of perjury under the law of the State of California that the foregoing is true and correct."

(b) For each person executing the affidavit, the affidavit shall contain a notary public's certificate of acknowledgment identifying the person.

(c) There shall be attached to the affidavit an inventory and appraisal of the decedent's real property in this state, excluding the real property described in Section 13050. The inventory and appraisal of the real property shall be made as provided in Part 3 (commencing with Section 8800) of Division 7. The appraisal shall be made by a probate referee selected by the affiant from those probate referees appointed by the Controller under Section 400 to appraise property in the county where the real property is located.

(d) If the affiant claims under the decedent's will and no estate proceeding is pending or has been conducted in California, a copy of the will shall be attached to the affidavit.

(e) A certified copy of the decedent's death certificate shall be attached to the affidavit. If the decedent's personal representative has consented to the use of the procedure provided by this chapter, a copy of the consent and of the personal representative's letters shall be attached to the affidavit.

(f) The affiant shall mail a copy of the affidavit and attachments to any person identified in paragraph (4) of subdivision (a).

SEC. 49. Section 13205 of the Probate Code is amended to read:

13205. (a) Except as provided in subdivision (b), each person who is designated as a successor of the decedent in a certified copy of any affidavit issued under Section 13202 is personally liable to the extent provided in Section 13207 to any person having a superior right by testate or intestate succession from the decedent.

(b) In addition to any other liability the person has under this section and Sections 13204, 13206, and 13207, if the person

fraudulently executed or filed the affidavit under this chapter, the person is liable to the person having a superior right for three times the fair market value of the property. For the purposes of this subdivision, the "fair market value of the property" is the fair market value, determined as of the time the certified copy of the affidavit was issued under Section 13202, of the property the person liable took under the certified copy of the affidavit to which the other person has a superior right, less any liens and encumbrances on the property at that time.

(c) An action to impose liability under this section is forever barred three years after the certified copy of the affidavit is issued under Section 13202, or three years after the discovery of the fraud, whichever is later. The three-year period specified in this subdivision is not tolled for any reason.

SEC. 50. Section 13206 of the Probate Code is amended to read:

13206. (a) Subject to subdivisions (b), (c), (d), and (e), if proceedings for the administration of the decedent's estate are commenced, or if the decedent's personal representative has consented to use of the procedure provided by this chapter and the personal representative later requests that the property be restored to the estate, each person who is designated as a successor of the decedent in a certified copy of an affidavit issued under Section 13202 is liable for:

(1) The restitution to the decedent's estate of the property the person took under the certified copy of the affidavit if the person still has the property, together with (A) the net income the person received from the property and (B) if the person encumbered the property after the certified copy of the affidavit was issued, the amount necessary to satisfy the balance of the encumbrance as of the date the property is restored to the estate.

(2) The restitution to the decedent's estate of the fair market value of the property if the person no longer has the property, together with (A) the net income the person received from the property prior to disposing of it and (B) interest from the date of disposition at the rate payable on a money judgment on the fair market value of the property. For the purposes of this paragraph, the "fair market value of the property" is the fair market value, determined as of the time of the disposition of the property, of the property the person took under the certified copy of the affidavit, less the amount of any liens and encumbrances on the property at the time the certified copy of the affidavit was issued.

(b) Subject to subdivision (d), if the person fraudulently executed or filed the affidavit under this chapter, the person is liable under this section for restitution to the decedent's estate of three times the fair market value of the property. For the purposes of this subdivision, the "fair market value of the property" is the fair market value, determined as of the time the certified copy of the affidavit was issued, of the property the person took under the certified copy of the affidavit, less the amount of any liens and encumbrances on the

property at that time.

(c) Subject to subdivision (d), if proceedings for the administration of the decedent's estate are commenced and a person designated as a successor of the decedent in a certified copy of an affidavit issued under Section 13202 made a significant improvement to the property taken by the person under the certified copy of the affidavit in the good faith belief that the person was the successor of the decedent to that property, the person is liable for whichever of the following the decedent's estate elects:

(1) The restitution of the property, as improved, to the estate of the decedent upon the condition that the estate reimburse the person making restitution for (A) the amount by which the improvement increases the fair market value of the property restored, determined as of the time of restitution, and (B) the amount paid by the person for principal and interest on any liens or encumbrances that were on the property at the time the certified copy of the affidavit was issued.

(2) The restoration to the decedent's estate of the fair market value of the property, determined as of the time of the issuance of the certified copy of the affidavit under Section 13202, less the amount of any liens and encumbrances on the property at that time, together with interest on the net amount at the rate payable on a money judgment running from the date of the issuance of the certified copy of the affidavit.

(d) The property and amount required to be restored to the estate under this section shall be reduced by any property or amount paid by the person to satisfy a liability under Section 13204 or 13205.

(e) An action to enforce the liability under this section may be brought only by the personal representative of the estate of the decedent. In an action to enforce the liability under this section, the court's judgment may enforce the liability only to the extent necessary to protect the interests of the heirs, devisees, and creditors of the decedent.

(f) An action to enforce the liability under this section is forever barred three years after the certified copy of the affidavit is issued under Section 13202, or three years after the discovery of the fraud, whichever is later. The three-year period specified in this subdivision is not tolled for any reason.

SEC. 51. Section 13207 of the Probate Code is amended to read:

13207. (a) A person designated as a successor of the decedent in a certified copy of an affidavit issued under Section 13202 is not liable under Section 13204 or 13205 if proceedings for the administration of the decedent's estate are commenced, or if the decedent's personal representative has consented to use of the procedure provided by this chapter and the personal representative later requests that the property be restored to the estate, and the person satisfies the requirements of Section 13206.

(b) Except as provided in subdivision (b) of Section 13205, the aggregate of the personal liability of a person under Sections 13204

and 13205 shall not exceed the sum of the following:

(1) The fair market value at the time of the issuance of the certified copy of the affidavit under Section 13202 of the decedent's property received by that person under this chapter, less the amount of any liens and encumbrances on the property at that time.

(2) The net income the person received from the property.

(3) If the property has been disposed of, interest on the fair market value of the property from the date of disposition at the rate payable on a money judgment. For the purposes of this paragraph, "fair market value of the property" has the same meaning as defined in paragraph (2) of subdivision (a) of Section 13206.

SEC. 52. Section 13210 is added to the Probate Code, to read:

13210. The procedure provided by this chapter may be used only if one of the following requirements is satisfied:

(a) No proceeding for the administration of the decedent's estate is pending or has been conducted in this state.

(b) The decedent's personal representative consents in writing to use of the procedure provided by this chapter.

SEC. 53. The heading of Chapter 2 (commencing with Section 13540) of Part 2 of Division 8 of the Probate Code is amended to read:

CHAPTER 2. RIGHT OF SURVIVING SPOUSE TO DISPOSE OF PROPERTY

SEC. 54. Section 13540 of the Probate Code is amended to read:

13540. (a) Except as provided in Section 13541, after 40 days from the death of a spouse, the surviving spouse or the personal representative, guardian of the estate, or conservator of the estate of the surviving spouse has full power to sell, convey, lease, mortgage, or otherwise deal with and dispose of the community or quasi-community real property, and the right, title, and interest of any grantee, purchaser, encumbrancer, or lessee shall be free of rights of the estate of the deceased spouse or of devisees or creditors of the deceased spouse to the same extent as if the property had been owned as the separate property of the surviving spouse.

(b) The surviving spouse or the personal representative, guardian of the estate, or conservator of the estate of the surviving spouse may record, together with the instrument that makes a disposition of property under this section, an affidavit of the facts that establish the right of the surviving spouse to make the disposition.

(c) Nothing in this section affects or limits the liability of the surviving spouse under Sections 13550 to 13553, inclusive, and Chapter 3.5 (commencing with Section 13560).

SEC. 55. Section 13541 of the Probate Code is amended to read:

13541. (a) Section 13540 does not apply to a sale, conveyance, lease, mortgage, or other disposition that takes place after a notice that satisfies the requirements of this section is recorded in the office of the county recorder of the county in which real property is located.

(b) The notice shall contain all of the following:

(1) A description of the real property in which an interest is claimed.

(2) A statement that an interest in the property is claimed by a named person under the will of the deceased spouse.

(3) The name or names of the owner or owners of the record title to the property.

(c) There shall be endorsed on the notice instructions that it shall be indexed by the recorder in the name or names of the owner or owners of record title to the property, as grantor or grantors, and in the name of the person claiming an interest in the property, as grantee.

(d) A person shall not record a notice under this section for the purpose of slandering title to the property. If the court in an action or proceeding relating to the rights of the parties determines that a person recorded a notice under this section for the purpose of slandering title, the court shall award against the person the cost of the action or proceeding, including a reasonable attorney's fee, and the damages caused by the recording.

SEC. 56. Section 13545 is added to the Probate Code, to read:

13545. (a) After the death of a spouse, the surviving spouse, or the personal representative, guardian of the estate, or conservator of the estate of the surviving spouse has full power to sell, assign, pledge, or otherwise deal with and dispose of community or quasi-community property securities registered in the name of the surviving spouse alone, and the right, title, and interest of any purchaser, assignee, encumbrancer, or other transferee shall be free of the rights of the estate of the deceased spouse or of devisees or creditors of the deceased spouse to the same extent as if the deceased spouse had not died.

(b) Nothing in this section affects or limits the liability of a surviving spouse under Sections 13550 to 13553, inclusive, and Chapter 3.5 (commencing with Section 13560).

SEC. 57. Chapter 3.5 (commencing with Section 13560) is added to Part 2 of Division 8 of the Probate Code, to read:

CHAPTER 3.5. LIABILITY FOR DECEDENT'S PROPERTY

13560. For the purposes of this chapter, "decedent's property" means the one-half of the community property that belongs to the decedent under Section 100 and the one-half of the quasi-community property that belongs to the decedent under Section 101.

13561. (a) If the decedent's property is in the possession or control of the surviving spouse at the time of the decedent's death, the surviving spouse is personally liable to the extent provided in Section 13563 to any person having a superior right by testate succession from the decedent.

(b) An action to impose liability under this section is forever barred three years after the death of the decedent. The three-year

period specified in this subdivision is not tolled for any reason.

13562. (a) Subject to subdivisions (b), (c), and (d), if proceedings for the administration of the decedent's estate are commenced, the surviving spouse is liable for:

(1) The restitution to the decedent's estate of the decedent's property if the surviving spouse still has the decedent's property, together with (A) the net income the surviving spouse received from the decedent's property and (B) if the surviving spouse encumbered the decedent's property after the date of death, the amount necessary to satisfy the balance of the encumbrance as of the date the decedent's property is restored to the estate.

(2) The restitution to the decedent's estate of the fair market value of the decedent's property if the surviving spouse no longer has the decedent's property, together with (A) the net income the surviving spouse received from the decedent's property prior to disposing of it and (B) interest from the date of disposition at the rate payable on a money judgment on the fair market value of the decedent's property. For the purposes of this paragraph, the "fair market value of the decedent's property" is the fair market value of the decedent's property, determined as of the time of the disposition of the decedent's property, less the amount of any liens and encumbrances on the decedent's property at the time of the decedent's death.

(b) Subject to subdivision (c), if proceedings for the administration of the decedent's estate are commenced and the surviving spouse made a significant improvement to the decedent's property in the good faith belief that the surviving spouse was the successor of the decedent to the decedent's property, the surviving spouse is liable for whichever of the following the decedent's estate elects:

(1) The restitution of the decedent's property, as improved, to the estate of the decedent upon the condition that the estate reimburse the surviving spouse for (A) the amount by which the improvement increases the fair market value of the decedent's property restored, valued as of the time of restitution, and (B) the amount paid by the surviving spouse for principal and interest on any liens or encumbrances that were on the decedent's property at the time of the decedent's death.

(2) The restoration to the decedent's estate of the fair market value of the decedent's property, valued as of the time of the decedent's death, excluding the amount of any liens and encumbrances on the decedent's property at that time, together with interest on the net amount at the rate payable on a money judgment running from the date of the decedent's death.

(c) The property and amount required to be restored to the estate under this section shall be reduced by any property or amount paid by the surviving spouse to satisfy a liability under Chapter 3 (commencing with Section 13550).

(d) An action to enforce the liability under this section may be

brought only by the personal representative of the estate of the decedent. In an action to enforce the liability under this section, the court's judgment may enforce the liability only to the extent necessary to protect the interests of the heirs, devisees, and creditors of the decedent.

(e) An action to enforce the liability under this section is forever barred three years after the death of the decedent. The three-year period specified in this subdivision is not tolled for any reason.

13563. (a) The surviving spouse is not liable under Section 13561 if proceedings for the administration of the decedent's estate are commenced and the surviving spouse satisfies the requirements of Section 13562.

(b) The aggregate of the personal liability of the surviving spouse under Section 13561 shall not exceed the sum of the following:

(1) The fair market value at the time of the decedent's death, less the amount of any liens and encumbrances on the decedent's property at that time, of the portion of the decedent's property that passes to any person having a superior right by testate succession from the decedent.

(2) The net income the surviving spouse received from the portion of the decedent's property that passes to any person having a superior right by testate succession from the decedent.

(3) If the decedent's property has been disposed of, interest on the fair market value of the portion of the decedent's property that passes to any person having a superior right by testate succession from the decedent from the date of disposition at the rate payable on a money judgment. For the purposes of this paragraph, "fair market value" is fair market value, determined as of the time of disposition of the decedent's property, less the amount of any liens and encumbrances on the decedent's property at the time of the decedent's death.

13564. The remedies available under Sections 13561 to 13563, inclusive, are in addition to any remedies available by reason of any fraud or intentional wrongdoing.

SEC. 58. Section 4150.7 is added to the Vehicle Code, to read:

4150.7. (a) Ownership of title to a vehicle subject to registration may be held in beneficiary form that includes a direction to transfer ownership of the vehicle to a designated beneficiary on the death of the owner if both of the following requirements are satisfied:

(1) Only one owner is designated.

(2) Only one TOD beneficiary is designated.

(b) A certificate of ownership issued in beneficiary form shall include, after the name of the owner, the words "transfer on death to" or the abbreviation "TOD" followed by the name of the beneficiary.

(c) During the lifetime of the owner, the signature or consent of the beneficiary is not required for any transaction relating to the vehicle for which a certificate of ownership in beneficiary form has been issued.

(d) The fee for registering ownership of a vehicle in a beneficiary form is ten dollars ($10).

SEC. 59. Section 5910.5 is added to the Vehicle Code, to read:

5910.5. (a) On death of the owner of a vehicle owned in beneficiary form, the vehicle belongs to the surviving beneficiary, if any. If there is no surviving beneficiary, the vehicle belongs to the estate of the deceased owner or of the last coowner to die.

(b) A certificate of ownership in beneficiary form may be revoked or the beneficiary changed at any time before the death of the owner by either of the following methods:

(1) By sale of the vehicle with proper assignment and delivery of the certificate of ownership to another person.

(2) By application for a new certificate of ownership without designation of a beneficiary or with the designation of a different beneficiary.

(c) Except as provided in subdivision (b), designation of a beneficiary in a certificate of ownership issued in beneficiary form may not be changed or revoked by will, by any other instrument, by a change of circumstances, or otherwise.

(d) The beneficiary's interest in the vehicle at death of the owner is subject to any contract of sale, assignment, or security interest to which the owner was subject during his or her lifetime.

(e) The surviving beneficiary may secure a transfer of ownership for the vehicle upon presenting to the department all of the following:

(1) The appropriate certificate of ownership.

(2) A certificate under penalty of perjury stating the date and place of the owner's death and that the declarant is entitled to the vehicle as the designated beneficiary.

(3) If required by the department, a certificate of the death of the owner.

(f) After the death of the owner, the surviving beneficiary may transfer his or her interest in the vehicle to another person without securing transfer of ownership into his or her own name by appropriately signing the certificate of ownership for the vehicle and delivering the document to the transferee for forwarding to the department with appropriate fees. The transferee may secure a transfer of ownership upon presenting to the department (1) the certificate of ownership signed by the beneficiary, (2) the certificate described in paragraph (2) of subdivision (e) executed by the beneficiary under penalty of perjury; and (3) if required by the department, a certificate of death of the owner.

(g) A transfer at death pursuant to this section is effective by reason of this section, and shall not be deemed to be a testamentary disposition of property. The right of the designated beneficiary to the vehicle shall not be denied, abridged, or affected on the grounds that the right has not been created by a writing executed in accordance with the laws of this state prescribing the requirements to effect a valid testamentary disposition of property.

(h) A transfer at death pursuant to this section is subject to Section 9653 of the Probate Code.

(i) If there is no surviving beneficiary, the person or persons described in Section 5910 may secure transfer of the vehicle as provided in that section.

(j) The department may prescribe forms for use pursuant to this section.

SEC. 60. Section 5910.7 is added to the Vehicle Code, to read:

5910.7. (a) If the department makes a transfer pursuant to Section 5910.5, the department is discharged from all liability, whether or not the transfer is consistent with the beneficial ownership of the vehicle transferred.

(b) The protection provided by subdivision (a) does not extend to a transfer made after the department has been served with a court order restraining the transfer. No other notice or information shown to have been available to the department shall affect its right to the protection afforded by subdivision (a).

(c) The protection provided by this section has no bearing on the rights of parties in disputes between themselves or their successors concerning the beneficial ownership of the vehicle.

(d) The protection provided by this section is in addition to, and not exclusive of, any other protection provided to the department by any other provision of law.

SEC. 61. Section 9852.7 is added to the Vehicle Code, to read:

9852.7. (a) Ownership of an undocumented vessel subject to registration may be held in beneficiary form that includes a direction to transfer ownership of the vessel to a designated beneficiary on death of the owner if both of the following requirements are satisfied:

(1) Only one owner is designated.

(2) Only one TOD beneficiary is designated.

(b) Ownership registration and title issued in beneficiary form shall include, after the name of the owner, the words "transfer on death to" or the abbreviation "TOD" followed by the name of the beneficiary.

(c) During the lifetime of the owner, the signature or consent of the beneficiary is not required for any transaction relating to the vessel for which a certificate of ownership in beneficiary form has been issued.

(d) The fee for registering ownership of a vessel in a beneficiary form is ten dollars ($10).

SEC. 62. Section 9916.5 is added to the Vehicle Code, to read:

9916.5. (a) On death of the owner of a vessel numbered under this division and owned in beneficiary form, the vessel belongs to the surviving beneficiary, if any. If there is no surviving beneficiary, the vessel belongs to the estate of the deceased owner.

(b) A certificate of ownership in beneficiary form may be revoked or the beneficiary changed at any time before the death of the owner by either of the following methods:

(1) By sale of the vessel with property assignment and delivery of

the certificate of ownership to another person.

(2) By application for a new certificate of ownership without designation of a beneficiary or with the designation of a different beneficiary.

(c) Except as provided in subdivision (b), designation of a beneficiary in a certificate of ownership issued in beneficiary form may not be changed or revoked by will, by any other instrument, by a change of circumstances, or otherwise.

(d) The beneficiary's interest in the vessel at death of the owner is subject to any contract of sale, assignment, or security interest to which the owner was subject during his or her lifetime.

(e) The surviving beneficiary may secure a transfer of ownership for the vessel upon presenting to the department all of the following:

(1) The appropriate certificate of ownership.

(2) A certificate under penalty of perjury stating the date and place of the owner's death and that the declarant is entitled to the vessel as the designated beneficiary.

(3) If required by the department, a certificate of the death of the owner.

(f) After the death of the owner, the surviving beneficiary may transfer his or her interest in the vessel to another person without securing transfer of ownership into his or her own name by appropriately signing the certificate of ownership for the vessel and delivering the document to the transferee for forwarding to the department with appropriate fees. The transferee may secure a transfer of ownership upon presenting to the department (1) the certificate of title signed by the beneficiary, (2) the certificate described in paragraph (2) of subdivision (e) executed by the beneficiary under penalty of perjury, and (3) if required by the department, a certificate of death of the owner.

(g) A transfer at death pursuant to this section is effective by reason of this section, and shall not be deemed to be a testamentary disposition of property. The right of the designated beneficiary to the vessel shall not be denied, abridged, or affected on the grounds that the right has not been created by a writing executed in accordance with the laws of this state prescribing the requirements to effect a valid testamentary disposition of property.

(h) A transfer at death pursuant to this section is subject to Section 9653 of the Probate Code.

(i) If there is no surviving beneficiary, the person or persons described in Section 9916 may secure transfer of the vessel as provided in that section.

(j) The department may prescribe forms for use pursuant to this section.

SEC. 63. Section 9916.7 is added to the Vehicle Code, to read:

9916.7. (a) If the department makes a transfer pursuant to Section 9916.5, the department is discharged from all liability, whether or not the transfer is consistent with the beneficial ownership of the vessel transferred.

(b) The protection provided by subdivision (a) does not extend to a transfer made after the department has been served with a court order restraining the transfer. No other notice or information shown to have been available to the department shall affect its right to the protection afforded by subdivision (a).

(c) The protection provided by this section has no bearing on the rights of parties in disputes between themselves or their successors concerning the beneficial ownership of the vessel.

(d) The protection provided by this section is in addition to, and not exclusive of, any other protection provided to the department by any other provision of law.

SEC. 64. Sections 18080.2, 18102.2, and 18102.3 of the Health and Safety Code as added by this act shall become operative on January 1, 1994. Sections 4150.7, 5910.5, 5910.7, 9852.7, 9916.5, and 9916.7 of the Vehicle Code as added by this act, and the amendment made by this act to Section 9653 of the Probate Code, shall become operative on January 1, 1993.

CHAPTER 1056

An act to amend Sections 400, 401, 402, 403, 404, and 405 of, and to add Sections 406, 406.1, and 406.2 to, the Insurance Code, relating to insurance, and making an appropriation therefor.

[Approved by Governor October 14, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 400 of the Insurance Code is amended to read:

400. (a) Except as otherwise provided in this article, commencing April 1, 1992, no policy or endorsement insuring a private passenger automobile as defined in subdivision (a) of Section 660 shall be issued or amended by an insurer in this state to provide collision or comprehensive coverage, or both, to a person not formerly an insured of the insurer or to an insured not formerly insured by the insurer for those coverages unless the insurer or its designated authorized representative has inspected the automobile.

(b) Except as otherwise provided in this article, automobile collision or comprehensive coverage, or both, shall not be effective on an additional or replacement private passenger automobile until the insurer or its designated authorized representative has inspected the automobile.

(c) The inspection required by subdivision (a) shall be recorded on an inspection report adopted by the commissioner, however, an application for insurance which incorporates the provisions promulgated by the commissioner shall be deemed in compliance

with this requirement. Two color photographs, taken as directed on the inspection report at angles which show the front, back, and sides of the vehicle, shall be attached thereto. In addition, a color photograph shall be attached showing a closeup of the Safety Certification Label otherwise known as "49 CFR Part 567 Certification Label" containing the vehicle identification number (VIN), located on the driver's side door jamb. The photograph shall be of sufficient clarity that the vehicle identification number on the label is legible. Where the Safety Certification Label is missing or where the photograph does not produce a legible reproduction of the VIN, the inspector shall include the required photograph and indicate the circumstances in the appropriate place on the inspection form. The inspector may take additional photographs showing any damaged areas, which shall also be attached to the report. A copy of the report, without photographs, shall be provided to the insured by the insurer.

(d) For purposes of this section, "color photograph" means any legally accepted technology which produces a retrievable visual image including, but not limited to, a photograph, video tape, digital or visual imagery, or other technology approved by the commissioner. Nothing in this article shall preclude an insurer from electronically storing photographs mandated by this section.

SEC. 2. Section 401 of the Insurance Code is amended to read:

401. An insurer may waive or dispense with the mandatory inspection required by this article under any of the following circumstances:

(1) The insured vehicle is a temporary substitute vehicle.

(2) The insured vehicle is leased for less than six months, provided the insurer receives the lease or rental agreement containing a description of the vehicle, including its condition.

(3) The vehicle is over seven years old.

(4) The vehicle is a new and unused automobile purchased or leased from a dealer, as defined in Section 285 of the Vehicle Code, and the insurer is provided with either a copy of the bill of sale or purchase order or conditional sales contract, as defined in subdivision (a) of Section 2981 of the Civil Code, that contains a full description of the automobile, including all options and accessories, or a copy of the federally mandated window sticker or the dealer invoice showing the itemized manufacturer-installed options and equipment in addition to the total retail price of the vehicle on which will be added together with a due bill or other descriptive evidence of any dealer-installed options purchased by the customer at the time of sale. The collision or comprehensive coverage, or both, on the vehicle shall not be suspended during the term of the policy due to the insured's failure to provide the required document or documents, but payment of a claim shall be conditioned upon receipt by the insurer of the documents, and no collision or comprehensive loss occurring after the effective date of coverage shall be payable until the documents are provided to the insurer.

(5) The vehicle is an additional or a replacement vehicle, and the named insured has been continuously insured for three or more policy years for automobile insurance with the same insurer or an affiliate of that insurer.

(6) Where the insured's coverage is being transferred to a new insurer within an existing agency or production facility; or to a new agent or broker within the existing insurer or insurer group; and the new insurer or agent or broker is provided with a copy of the inspection report completed on behalf of the previous insurer, or its designated representative provided the insured vehicle was inspected by the previous insurer within the last 12 months. If the new insurer does not receive a copy of the inspection report within 60 days of the effective date of coverage, the new insurer shall cause an inspection to be performed within 30 days of notice to the insured.

(7) The insured vehicle is insured under a commercially rated policy that insures five or more vehicles.

(8) Whenever, with respect to the use of a nonowned vehicle by an insured where the insurer or its agent is notified of the use, the insurer or its agent determines it is reasonable to do so because the likelihood of a fraudulent physical damage claim is remote, including, but not limited to, when it is determined that the nonowned vehicle is insured under a policy providing automobile collision or comprehensive insurance and the vehicle has otherwise been inspected in accordance with this article.

(9) A buyer, borrower, or lessee of the vehicle is obligated under the terms of a conditional sale contract, loan agreement, note, or lease to maintain insurance on the vehicle and fails to procure or maintain the required coverage and the creditor or lessor procures the insurance in accordance with the conditional sale contract, loan agreement, note, or lease.

SEC. 3. Section 402 of the Insurance Code is amended to read:

402. (a) Upon the insured's request for coverage for private passenger automobile collision or comprehensive insurance, or both, on an additional or replacement vehicle, the insurer may provide coverage immediately, and the inspection required by this article may be deferred for seven days following the effective date of coverage if an inspection at the time of a request for coverage would create a serious inconvenience for the applicant.

(b) An insurer may defer the inspection required by this article under the following circumstances.

(1) On additional vehicles for up to five business days following the effective date of coverage.

(2) On replacement vehicles, an insurer may provide the same type or level of collision or comprehensive coverage, or both, that covered the replaced vehicle without a request for coverage by the insured. That automatic coverage prior to the insured's request for coverage may be for a period of up to five business days after the day on which the automobile is acquired.

(c) If an inspection is not conducted prior to the expiration of the

seven-day period set forth in this section, collision or comprehensive coverage, or both, on the vehicle shall not be suspended, but payment of a claim shall be limited to the lienholder interest of a federal or state regulated financial institution until the inspection is conducted. The insurer, however, shall inspect the vehicle and reinstate coverage for automobile physical damage if the insured thereafter requests an inspection.

(d) Whenever automobile collision or comprehensive coverage, or both, is restricted pursuant to subdivision (c) for the failure to have an inspection report, the insurer shall immediately notify the insured that the collision or comprehensive coverage, or both, is restricted until the vehicle is inspected.

(e) The commissioner shall adopt by regulation a notice of mandatory preinsurance inspection requirement letter, which shall be provided the applicant by the insurer or its agent. If the insurer or its agent fails to give notice to the insured of the mandatory requirement of physical inspection or otherwise fails to comply with this article, the collision or comprehensive coverage, or both, shall not be restricted pursuant to subdivision (c).

SEC. 4. Section 403 of the Insurance Code is amended to read:

403. (a) Inspections required or permitted by this article shall be made by a designated authorized representative or inspection service of the insurer at times and places reasonably convenient to the insured.

(b) An insurer shall utilize authorized representatives or inspection services who shall do all of the following:

(1) Be responsible for the accuracy, completeness, and signature of the inspector for each inspection report in writing.

(2) Utilize sequentially numbered inspection reports, by location, and maintain a control system on those reports. Alternatively, an insurer may utilize an internal system of distinctive identification which permits, by location, maintenance of a control system designed to prevent backdating or other fraudulent activity concerning the reports.

(3) For one year after the date of the inspection, retain and supply to the insurer, upon request, a copy of any inspection report.

(c) The insurer shall bear the cost of the inspection, however, where the inspection is performed by an agent or broker, the insurer shall not be required to reimburse the agent or broker for the labor costs of those inspections. The cost of the inspection may be included as an administrative expense for ratemaking purposes.

(d) The inspection report shall be used by the insurer to document previous damage, prior condition, optional equipment and accessories, and mileage of the vehicle. Optional equipment and accessories listed shall include, but are not limited to, alarm systems, radar detectors, custom tires and wheels, and sound and communication systems, such as radios, stereos, tape decks, compact disks, and CB radios.

(e) The inspection report information and photographs as

necessary shall be used by the insurer in the settlement of all collision or comprehensive claims, or both, in excess of two thousand dollars ($2,000) and shall be used and made part of the claim file in the settlement of all unrecovered theft claims or total loss claims. The inspection report shall be part of the claim file regardless of whether or not the loss payment is reduced based on the information contained in the report. The commissioner shall periodically increase the amount of damages for which it is necessary to utilize the inspection report to settle a collision or comprehensive claim to account for inflation.

(f) The commissioner shall adopt regulations as may be necessary, including the promulgation of necessary forms to implement this section. In adopting forms to implement this section, the commissioner shall provide insurers with the option of using preapproved forms or incorporating standardized provisions into the application for coverage.

SEC. 5. Section 404 of the Insurance Code is amended to read:

404. After the mandatory inspection is conducted under this article, the insurer may require that the insured vehicle be periodically reinspected, but not more than once in each calendar year, as a condition for subsequent renewal of automobile collision or comprehensive coverage, or both.

SEC. 6. Section 405 of the Insurance Code is amended to read:

405. As used in this article:

(a) "Temporary substitute vehicle" means any private passenger vehicle, not owned by the insured, while temporarily used with the permission of the owner as a substitute for the vehicle, owned or leased by the insured, while the latter is withdrawn from normal use because of a breakdown, repair, servicing, loss, or destruction.

(b) "Additional vehicle" means any new or used vehicle covered by this article which an insured requests be added to the insured's preexisting policy providing automobile collision or comprehensive coverage, or both.

(c) "Replacement vehicle" means any new or used vehicle covered by this article which an insured requests be added to the insured's preexisting policy providing automobile collision or comprehensive coverage, or both, in lieu of another vehicle covered by that policy.

SEC. 6.1. Section 406 is added to the Insurance Code, to read:

406. On and after April 1, 1992, nothing in this article shall be construed to prohibit an insurer from electing to require inspections of private passenger automobiles which were insured by the insurer on or before March 31, 1992.

SEC. 6.2. Section 406.1 is added to the Insurance Code, to read:

406.1. No insurer, agent, or broker or automobile dealer shall misrepresent private passenger automobile insureds as commercial insureds for the purpose of avoiding the requirements of Section 400.

SEC. 6.3. Section 406.2 is added to the Insurance Code, to read:

406.2. Insurers shall apply the requirements of this article based

solely on underwriting criteria uniformly applied and not based on age, race, sex, or marital status of an insured or applicant, the principal place of garaging, or the driving record of the insured or applicant.

SEC. 7. (a) The Insurance Commissioner shall conduct a study as to the cost-effectiveness of the mandatory vehicle inspection program required pursuant to Section 400 of the Insurance Code. The study shall include the costs of program implementation and the anticipated or realized savings to insurers, policyholders, and others. That preliminary study shall be public and shall be submitted to the Governor and the Legislature on or before February 1, 1995.

(b) All admitted insurers, licensees of the Department of Insurance, and other parties to the implementation and operation of the inspection program shall offer all assistance and cooperation with the commissioner in conducting the study and report required pursuant to subdivision (a).

(c) The sum of one hundred fifty thousand dollars ($150,000) is hereby appropriated from the Insurance Fund to the Insurance Commissioner for purposes of conducting the study and report required pursuant to subdivision (a).

CHAPTER 1057

An act to amend Sections 11623 and 11627.5 of the Insurance Code, relating to insurance.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 11623 of the Insurance Code is amended to read:

11623. (a) To assist the commissioner in carrying out the purposes of this article, an advisory committee composed of 15 members is created. The commissioner shall administer and operate the plan as authorized by law. The Commissioner shall consult with the advisory committee on a regular basis on policy matters affecting the operation of the plan.

Eight members representing subscribing insurers shall be elected annually by subscribing insurers. The commissioner shall appoint the noninsurer members. Four members shall represent the public. Two members shall represent producers. The remaining member is the commissioner or his or her designee.

All insurer representatives shall be salaried employees. At least two insurer representatives shall be employed by insurers having their principal headquarters located in California. At least two insurer representatives shall represent companies who have average

annual automobile liability premiums in California below one hundred million dollars ($100,000,000) in the prior three years. At least one insurer representative shall represent an insurer with average annual automobile liability premiums in California exceeding one hundred million dollars ($100,000,000) in the prior three years. At least one insurer representative shall represent an insurer with average annual automobile liability premiums in California exceeding seven hundred million dollars ($700,000,000) in the prior three years.

Public members shall be paid two hundred fifty dollars ($250) per meeting and shall be reimbursed all reasonable expenses incurred.

The commissioner shall remove members for nonattendance. Unless satisfactory excuse is made in writing to the commissioner in a timely manner, nonattendance shall mean the failure to appear at more than two regularly scheduled meetings in a 12-month period. Should the member who is removed represent a company or agency, another representative from the company or agency may not be appointed for a period of not less than two years.

The advisory committee with the approval of the commissioner shall appoint a manager to carry out the purposes of this article, employ sufficient personnel to provide services necessary to the operation of the plan, and contract for the provision of statistical and actuarial services.

The cost of the plan, including any personnel and contracting costs, shall be fairly apportioned among the subscribing insurers to whom assignments may be made. The costs associated shall be directly attributable to the management of the plan and directly related to its programs. In consultation with the advisory committee, the commissioner shall develop, issue, and adopt regulations to carry out the purposes of this article.

(b) On or before April 15 of each year the commissioner shall provide to the Legislature and others who request it a report on the operation of the plan. The report shall include at least the following: for the prior three years, including the year prior to the issuance of the report, the number of assignments made, premiums, losses, loss adjustment expenses, administrative costs, loss ratios and combined ratios in the aggregate and for each subscribing insurer.

(c) Notwithstanding this act, which changes the status of the governing committee to that of an advisory committee, the committee shall have the right to retain counsel of its choice pursuant to a selection process adopted by the committee and the right and necessary standing to bring and defend actions in judicial and administrative proceedings related to the plan in the name of the plan, with all powers attendant thereto including the right to retain consultants, counsel, and expert witnesses of its choice.

SEC. 2. Section 11627.5 of the Insurance Code is amended to read:

11627.5. (a) Every insurer to which this article applies shall, at the time of filing the annual report required by Section 900, file on

a form prescribed by the commissioner, after consultation with the committee of the plan, a report which shall contain at least the following information on its assigned-risk business:

(1) Loss ratio.

(2) Loss adjustment expense ratio.

(3) Expense ratio.

(4) Combined ratio.

Reports filed in 1991 shall contain information for the prior three years, by year.

(b) The commissioner may require insurers with combined ratios that are 10 percent above the mean combined ratio for all plan participants to also report the following:

(1) The reason for the excessive ratio.

(2) A plan for reducing the ratio, and when the reduction can be expected to occur. The commissioner and the committee may require insurers subject to this subdivision to provide periodic reports on the progress in reducing the combined ratio.

(c) Information reported under this section shall be a public record.

(d) The commissioner shall report the information reported under this section, in the aggregate and by insurer, with accompanying discussion, to the appropriate policy committee of each house of the Legislature on or before March 1, 1992, and March 1 of each year thereafter, except that this report may be provided by April 15, if it includes the report required by subdivision (b) of Section 11623, in which case only one report shall be required. That combined report shall be provided to any person requesting it and to the appropriate policy committees of each house of the Legislature.

CHAPTER 1058

An act to add Section 14551.4 to the Public Resources Code, relating to beverage containers.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 14551.4 is added to the Public Resources Code, to read:

14551.4. The department shall make available the information collected pursuant to subdivision (a) of Section 14551, concerning the volumes of materials collected from certified recycling centers, only to a governmental agency which requests the information, including a city or county, or an entity specifically designated by the city or county to receive the information if the entity requests the

information, if all of the following conditions are met:

(a) The request is made in writing.

(b) All information provided by the department is provided using the aggregate amounts collected in the city or county unless the city or county, or an entity specifically designated by the city or county to receive the information, requests the information provided by each individual certified recycling center.

(c) All information provided to the governmental agency, including a city or county, or an entity specifically designated by the city or county to receive the information, is considered proprietary and confidential in nature and protected in accordance with the requirements of subdivision (b) of Section 14551 of the Public Resources Code, Section 14554 of the Public Resources Code, and subdivision (e) of Section 6254.5 of the Government Code.

CHAPTER 1059

An act to amend Section 9407.1 of the Commercial Code, to amend Section 21304 of the Corporations Code, and to amend Sections 12181, 12184, and 12197.1 of, and to add Section 12168.5 to, the Government Code, relating to the Secretary of State.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 9407.1 of the Commercial Code is amended to read:

9407.1. In lieu of filing all financing statements, termination statements, partial releases, assignments, or other related papers falling under this code, the filing officer may record those papers. The filing officer may employ a system of microphotography, optical disk, or reproduction by other techniques which do not permit additions, deletions, or changes to the original document.

All film used in the microphotography process shall comply with minimum standards of quality approved by the United States Bureau of Standards and the American National Standards Institute. A true copy of the microfilm, optical disk, or other storage medium shall be kept in a safe and separate place for security purposes. A reproduction of any document filed, recorded, stored, or retained on microfilm, optical disk, or by other technology pursuant to this section shall be as admissible in any court as the original itself.

SEC. 2. Section 21304 of the Corporations Code is amended to read:

21304. The Secretary of State shall charge and collect a fee of ten dollars ($10) for each registration made under this chapter.

SEC. 3. Section 12168.5 is added to the Government Code, to

read:

12168.5. When not inconsistent with other provisions of law, in lieu of filing or recording documents presented in paper format, the Secretary of State may file or record any document by using automated data processing, telecommunications, and other information technologies which do not permit additions, deletions, or changes in the original document. The filing or recording shall constitute a unique computerized informational record. The record need not be retained in the form in which it is received, so long as the technology used to retain the record results in a permanent record which may be accurately reproduced during the period for which the record is required to be retained.

The filing officer may employ a system of microphotography, optical disk, or reproduction by other techniques which do not permit additions, deletions, or changes to the original document.

All film used in the microphotography process shall comply with minimum standards of quality approved by the United States Bureau of Standards and the American National Standards Institute. A true copy of the microfilm, optical disk, or other storage medium shall be kept in a safe and separate place for security purposes. A reproduction of any document filed, recorded, stored, or retained on microfilm, optical disk, or by other technology pursuant to this section shall be as admissible in any court as the original itself.

The Secretary of State shall obtain the approval of the Fair Political Practices Commission before applying this section to a filing or recording under the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)).

SEC. 4. Section 12181 of the Government Code is amended to read:

12181. (a) Commencing July 1, 1992, all fees collected by the Secretary of State's office pursuant to the Business and Professions Code, Code of Civil Procedure, Commercial Code, Corporations Code, Food and Agricultural Code, Government Code, excluding Section 81008, and Harbors and Navigation Code, shall be paid into the Secretary of State's Business Fees Fund which is hereby created in the State Treasury for the administration of that portion of the Secretary of State's functions under these codes.

(b) It is the intent of the Legislature that moneys deposited into the Secretary of State's Business Fees Fund shall be used to support the programs from which fees are collected. It is further the intent of the Legislature that fees shall be sufficient to cover the costs of these programs and shall be expended, commencing in the 1992–93 fiscal year, to the extent that appropriations are made in the annual Budget Act. All fees collected, and any interest earned thereon, in excess of the authority of the Secretary of State to expend pursuant to the annual Budget Act, shall be transferred to the General Fund at the end of each fiscal year.

At least weekly, all fees collected by the Secretary of State shall be paid into the State Treasury.

SEC. 5. Section 12184 of the Government Code is amended to read:

12184. (a) The fee for preparing a copy of any law, resolution, record, or other document on file in the office of the Secretary of State, is one dollar ($1) for the first page, and fifty cents ($0.50) for each page thereafter.

(b) Except for copies of documents on file prepared pursuant to subdivision (a), the Secretary of State shall provide compilations, indexes, extracts, or summaries of information, including computer information, contained in the public records of the Secretary of State at a charge sufficient to recover costs. Except where a fee or charge is prescribed by statute, the fee or charge imposed pursuant to this subdivision shall not exceed ten dollars ($10) per inquiry.

(c) The Secretary of State may enter into contracts to provide information and copies and access to information, including direct access to computer information. The contracts may include reasonable conditions for access to information. The amounts payable pursuant to these contracts shall be sufficient to recover costs.

(d) The Secretary of State may require persons and firms regularly using the research facilities of the Secretary of State to use those research facilities only pursuant to a contract under subdivision (c).

(e) All fees, reimbursements, and contract amounts pursuant to this section shall be accounted as Secretary of State expenditure reimbursements.

(f) Fees for special handling pursuant to Section 12208 are in addition to amounts pursuant to this section.

SEC. 6. Section 12197.1 of the Government Code is amended to read:

12197.1. The Secretary of State shall establish by regulation an application, examination, and commission fee which shall be sufficient to cover the costs of commissioning notaries public and the enforcement of laws governing notaries public. The fee shall not exceed fifty dollars ($50) per commission.

CHAPTER 1060

An act to add Section 787 to the Public Utilities Code, relating to public utilities.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) The State of California is experiencing a critical shortage of landfill space for the state's solid waste.

(b) Pursuant to Division 30 (commencing with Section 40000) of the Public Resources Code, cities and counties are required to devise programs for their jurisdictions to reduce the amounts of solid waste going to landfills.

(c) Current laws in many local jurisdictions require excavations to be backfilled with slurry, and for the native spoil from the excavation to be disposed.

(d) Frequently, the only disposal sites available for excavation spoil are the state's landfills.

(e) Disposal in landfills of spoil that is competent for use as backfill wastes a substantial amount of valuable landfill space.

(f) Allowing alternative uses for this spoil will assist cities and counties in reaching the goals specified in the source reduction component of their integrated waste management plans.

SEC. 2. Section 787 is added to the Public Utilities Code, to read:

787. (a) Any public utility, or its contractor, to whom an excavation permit has been issued by any local agency for the installation, removal, maintenance, or repair of underground facilities may backfill the permitted excavation in any public road or highway with native spoil if all of the following conditions are met:

(1) The native spoil is competent spoil.

(2) Compaction meets the local agency's requirements using industry standards for testing compaction.

(3) The public utility or its contractor has no physical evidence of, or substantial reason to believe that there has been, contamination of the soil from hazardous wastes.

(4) Within 30 days prior to compaction, a local agency has not provided the public utility or its contractor with physical evidence of, or substantial reason to believe that there has been, contamination of the soil from hazardous wastes.

(b) If a local agency has determined through prior experience that the public utility that is applying for, or benefiting from, the excavation permit has previously neglected to adequately fill or compact prior excavations, whether directly or through its contractors, the local agency may, as a condition of the excavation permit do either or both of the following:

(1) Require the public utility to post a bond, with a term not exceeding one year, amounting to two times the cost for the local agency to repair the backfill work, if done improperly, or any related collateral damage.

(2) Require the public utility to submit a report from a registered soils engineer that the proper compaction of the excavation has been achieved.

(c) For purposes of this section:

(1) "Competent spoil" means soils that can be treated to bring their moisture content into the optimum range, and that can achieve the compaction required by the local agency.

(2) "Local agency" means any city or county agency.

(3) "Public utility" means any electrical corporation, gas corporation, heat corporation, water corporation, telephone corporation, pipeline corporation, sewer corporation, telegraph corporation, where the service is performed for, or the commodity delivered to, the public or any portion thereof.

CHAPTER 1061

An act to amend Sections 14756, 25105, 26205, 26205.1, 26205.5, 27322.2, 34090.5, and 60203 of the Government Code, to amend Section 10036 of the Health and Safety Code, and to amend Section 10851 of the Welfare and Institutions Code, relating to government records.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 14756 of the Government Code is amended to read:

14756. The public records of any state agency may be microfilmed, electronically data imaged, or otherwise photographically reproduced and certified upon the written authorization of the head of the agency. The microfilming, electronic data imaging, or photographic reproduction shall be made in compliance with the minimum standards or guidelines, or both, as recommended by the American National Standards Institute or the Association for Information and Image Management for recording of permanent records or nonpermanent records, whichever applies.

The certification of each reproduction or set of reproductions shall be in accordance with the standards, or have the approval, of the Attorney General. The certification shall contain a statement of the identity, description, and disposition or location of the records reproduced, the date, reason, and authorization for such reproduction, and such other information as the Attorney General requires.

The certified reproductions shall be deemed to be original public records for all purposes, including introduction in courts of law and state agencies.

SEC. 2. Section 25105 of the Government Code is amended to read:

25105. The board of supervisors may authorize the use of photographs, microphotographs, electronic data-processing records, optical disks, or any other medium which does not permit additions, deletions, or changes to the original document, or photocopies of all records, books and minutes of the board.

(a) Each photograph, microphotograph, or photocopy shall be made in a manner and on paper which will comply with the minimum standards or guidelines, or both, as recommended by the American National Standards Institute or the Association for Information and Image Management for recording of permanent records or nonpermanent records, whichever applies. Every reproduction shall be deemed and considered an original; and a transcript, exemplification, or certified copy of any reproduction shall be deemed and considered a transcript, exemplification, or certified copy, as the case may be, of the original. Each roll of microfilm shall be deemed and constitute a book and shall be designated and numbered, and provision shall be made for preserving, examining, and using it. A duplicate of each roll of microfilm shall be made and kept in a safe and separate place.

(b) Electronic data-processing records, records recorded on optical disk, and records recorded on any other medium shall comply with the minimum standards or guidelines, or both, as recommended by the American National Standards Institute or the Association for Information and Image Management. A duplicate copy of any record reproduced in compliance with the minimum standards or guidelines, or both, as recommended by the American National Standards Institute or the Association for Information and Image Management for recording of permanent records or nonpermanent records, whichever applies, shall be deemed an original.

(c) In the event the authorization provided herein is granted, the personal signatures required by Section 25103 may be reproduced by the authorized process, and the reproduced signatures shall be deemed to satisfy the requirement of Section 25103.

SEC. 3. Section 26205 of the Government Code is amended to read:

26205. At the request of the county officer concerned, the board of supervisors of any county may authorize the destruction of any record, paper, or document which is not expressly required by law to be filed and preserved if all of the following conditions are complied with:

(a) The record, paper, or document is photographed, microphotographed, reproduced by electronically recorded video images on magnetic surfaces, recorded in the electronic data-processing system, recorded on optical disk, or reproduced on film or any other medium which does not permit additions, deletions, or changes to the original document and is produced in compliance with the minimum standards or guidelines, or both, as recommended by the American National Standards Institute or the Association for Information and Image Management for recording of permanent records or nonpermanent records, whichever applies.

(b) The device used to reproduce the record, paper, or document on film, optical disk, or any other medium is one which accurately reproduces the original thereof in all details and which does not permit additions, deletions, or changes to the original document

images.

(c) The photographs, microphotographs, electronically recorded video images on magnetic surfaces, records in the electronic data-processing system, records recorded on optical disk, or other reproductions on film or any other medium are placed in conveniently accessible files and provision is made for preserving, examining, and using the files.

Notwithstanding any other provision of this section, destruction of the original records, papers, or documents is not authorized when the method of reproduction pursuant to this section is reproduction of electronically recorded video images on magnetic surfaces unless a duplicate videotape of the images is separately maintained. A duplicate copy of a record contained in the electronic data-processing system, on optical disk, or on any other medium which does not permit additions, deletions, or changes to the original document images shall also be separately maintained.

SEC. 4. Section 26205.1 of the Government Code is amended to read:

26205.1. (a) The county officer having custody of nonjudicial public records, documents, instruments, books, and papers may cause to be destroyed any or all of the records, documents, instruments, books, and papers if all of the following conditions exist:

(1) The board of supervisors of the county has adopted a resolution authorizing the county officer to destroy records, documents, instruments, books, and papers pursuant to this subdivision. The resolution may impose conditions, in addition to those specified in this subdivision, which the board of supervisors determines are appropriate.

(2) The county officer who destroys any record, document, instrument, book, or paper pursuant to the authority granted by this subdivision and a resolution of the board of supervisors adopted pursuant to paragraph (1) shall maintain for the use of the public a photographic or microphotographic film, electronic recorded video production, a record contained in the electronic data-processing system, a record recorded on optical disk, a record recorded by any other medium which does not permit additions, deletions, or changes to the original document, or other duplicate of the record, document, instrument, book, or paper destroyed.

(3) The record, paper or document is photographed, microphotographed, reproduced by electronically recorded video images on magnetic surfaces, recorded in the electronic data-processing system, recorded on optical disk or reproduced on film or any other medium which does not permit additions, deletions, or changes to the original document and is produced in compliance with the minimum standards or guidelines, or both, as recommended by the American National Standards Institute or the Association for Information and Image Management for recording of permanent records or nonpermanent records, whichever applies.

(b) Paragraphs (2) and 3 of subdivision (a) does not apply to

records prepared or received other than pursuant to a state statute or county charter, or records which are not expressly required by law to be filed and preserved.

For the purposes of this section, every reproduction shall be deemed to be an original record and a transcript, exemplification, or certified copy of any reproduction shall be deemed to be a transcript, exemplification, or certified copy, as the case may be, of the original.

(c) The county clerk having custody of the original or a copy of the articles of any corporation may cause the destruction of any or all the documents. "Articles" includes the articles of incorporation, amendments thereto, amended articles, restated articles, certificate of incorporation, certificates of determination of preferences, dissolution certificates, merger certificates, and agreements of consolidation or merger.

(d) Notwithstanding any other provision of this section, destruction of the original records, papers, or documents is not authorized when the method of reproduction pursuant to this section is reproduction of electronically recorded video images on magnetic surfaces unless a duplicate videotape of the images is separately maintained. A duplicate copy of a record contained in the electronic data-processing system, on optical disk, or on any other medium which does not permit additions, deletions, or changes to the original document shall also be separately maintained.

SEC. 5. Section 26205.5 of the Government Code is amended to read:

26205.5. At the request of the county recorder, the board of supervisors of any county may authorize the destruction of any or all of the filed papers or record books created by handwriting, typing on printed forms, by typewriting, or by photographic methods, in the recorder's official custody, if all of the following conditions are complied with:

(a) The record, paper, or document is photographed, microphotographed, reproduced by electronically recorded video images on magnetic surfaces, recorded in the electronic data-processing system, recorded on optical disk, reproduced on film or any other medium which does not permit additions, deletions, or changes to the original document, or reproduced under the direction and control of the county recorder on film, optical disk, or any other medium in compliance with the minimum standards or guidelines, or both, as recommended by the American National Standards Institute or the Association for Information and Image Management for recording of permanent records or nonpermanent records, whichever applies.

(b) The device used to reproduce the record, paper, or document on film, optical disk, or any other medium is one which accurately and legibly reproduces the original thereof in all details and which does not permit additions, deletions, or changes to the original document images.

(c) The photographs, microphotographs, or other reproductions

on film, optical disk, or any other medium are made as accessible for public reference as the original records were.

(d) A true copy of archival quality of the film, optical disk, or any other medium reproductions shall be kept in a safe and separate place for security purposes.

However, no page of any record, paper, or document shall be destroyed if any page cannot be reproduced on film with full legibility. Every unreproducible page shall be permanently preserved in a manner that will afford easy reference.

For the purposes of this section, every reproduction shall be deemed to be an original record and a transcript, exemplification, or certified copy of any reproduction shall be deemed to be a transcript, exemplification, or certified copy, as the case may be, of the original.

SEC. 6. Section 27322.2 of the Government Code is amended to read:

27322.2. A system of microphotography, optical disk, or reproduction by any other technique which does not permit additions, deletions, or changes to the original document may be used by the recorder as a photographic reproduction process to record some or all instruments, papers and notices that are required or permitted by law to be recorded or filed. All reproductions shall be made in compliance with the minimum standards or guidelines, or both, as recommended by the American National Standards Institute or the Association for Information and Image Management. A true copy of the document shall be kept in a safe and separate place which will reasonably assure its preservation for the duration of the retention prescribed by law against loss or destruction. A true copy of the document shall be arranged in a suitable place in the office of the recorder to facilitate public inspection.

SEC. 7. Section 34090.5 of the Government Code is amended to read:

34090.5. Notwithstanding the provisions of Section 34090, the city officer having custody of public records, documents, instruments, books, and papers, may, without the approval of the legislative body or the written consent of the city attorney, cause to be destroyed any or all of the records, documents, instruments, books, and papers, if all of the following conditions are complied with:

(a) The record, paper, or document is photographed, microphotographed, reproduced by electronically recorded video images on magnetic surfaces, recorded in the electronic data-processing system, recorded on optical disk, reproduced on film or any other medium which does not permit additions, deletions, or changes to the original document, or reproduced on film, optical disk, or any other medium in compliance with the minimum standards or guidelines, or both, as recommended by the American National Standards Institute or the Association for Information and Image Management for recording of permanent records or nonpermanent records, whichever applies.

(b) The device used to reproduce the record, paper, or document

on film, optical disk, or any other medium is one which accurately and legibly reproduces the original thereof in all details and which does not permit additions, deletions, or changes to the original document images.

(c) The photographs, microphotographs, or other reproductions on film, optical disk, or any other medium are made as accessible for public reference as the original records were.

(d) A true copy of archival quality of the film, optical disk, or any other medium reproductions shall be kept in a safe and separate place for security purposes.

However, no page of any record, paper, or document shall be destroyed if any page cannot be reproduced on film with full legibility. Every unreproducible page shall be permanently preserved in a manner that will afford easy reference.

For the purposes of this section, every reproduction shall be deemed to be an original record and a transcript, exemplification, or certified copy of any reproduction shall be deemed to be a transcript, exemplification, or certified copy, as the case may be, of the original.

SEC. 8. Section 60203 of the Government Code is amended to read:

60203. The legislative body of a district may authorize the destruction of any record, paper, or document which is not expressly required by law to be filed and preserved if all of the following conditions are complied with:

(a) The record, paper, or document is photographed, microphotographed, reproduced by electronically recorded video images on magnetic surfaces, recorded in the electronic data-processing system, recorded on optical disk, reproduced on film or any other medium which does not permit additions, deletions, or changes to the original document in compliance with the minimum standards or guidelines, or both, as recommended by the American National Standards Institute or the Association for Information and Image Management for recording of permanent records or nonpermanent records, whichever applies.

(b) The device used to reproduce the record, paper, or document on film, optical disk, or any other medium is one which accurately reproduces the original thereof in all details and which does not permit additions, deletions, or changes to the original document images.

(c) The photographs, microphotographs, or other reproductions on film, optical disk, or any other medium are placed in conveniently accessible files and provision is made for preserving, examining, and using the files.

For the purposes of this section, every reproduction shall be deemed to be an original record and a transcript, exemplification, or certified copy of any reproduction shall be deemed to be a transcript, exemplification, or certified copy, as the case may be, of the original.

SEC. 9. Section 10036 of the Health and Safety Code is amended to read:

10036. Notwithstanding any other provisions of law relating to retention of public records, the State Registrar may cause the original records of birth, death and marriage filed under this division to be destroyed if all of the following requirements have been met:

(a) One year has elapsed since the date of registration of the records.

(b) The birth, death, or marriage records have been reproduced onto microfilm or optical disk or by any other technique which does not permit additions, deletions, or changes to the original document in compliance with the minimum standards or guidelines, or both, recommended by the American National Standards Institute or the Association for Information and Image Management for recording of permanent records or nonpermanent records, whichever applies.

(c) Adequate provisions are made that the permanent storage medium reflects additions or corrections to the records.

(d) A permanent copy is maintained in a manner which permits it to be used for all purposes served by the original record.

(e) A permanent copy has been stored at a separate physical location in a place and manner which will reasonably assure its preservation indefinitely against loss or destruction.

SEC. 10. Section 10851 of the Welfare and Institutions Code is amended to read:

10851. (a) Each county shall establish and maintain a case record for each public social services case and shall retain the record for a period of three years. The three-year retention period begins on the date on which public social services were last provided. The records shall be retained beyond the three-year retention period when the county is notified by the department or the State Department of Health Services, whichever has jurisdiction over the records, to retain records for a longer period of time. The department or the State Department of Health Services, whichever has jurisdiction over the records, shall instruct a county to retain records beyond the three-year period when the retention is necessary to a pending civil or criminal action.

(b) Notwithstanding subdivision (a), the board of supervisors of any county may authorize the destruction of the case narrative portions of the case record that are over three years old in any case file, active or inactive, only after audit by the department or the State Department of Health Services, whichever has jurisdiction over the record. In addition, the board may also authorize the destruction of those documents contained in the case file which are over three years old and are no longer necessary to document the recipient's continued eligibility for public social services. However, if a civil or criminal action against a person based on alleged unlawful application for, or receipt of, public social services, is commenced before the expiration of the three-year period no portion of the case record of the person shall be destroyed until the action is terminated.

(c) Each county shall maintain fiscal, statistical, and other records necessary for maintaining accountability and meeting reporting

requirements relating to the administration of public social services. These fiscal and reporting records shall be retained for a minimum period of three years from the date of submission of the final expenditure report and shall be retained beyond the three-year period when audit findings have not been resolved.

(d) The retention requirements imposed by subdivisions (a) and (c) of this section are for public social services purposes only and are superseded to the extent another statute requires retention of the same records for a longer period for a different purpose.

(e) Notwithstanding subdivision (a), or any other statutory requirement concerning the retention of public social services records, a child protective services agency may, but need not, retain a child abuse report which has been determined to be an unfounded report, as defined in Section 11165.12 of the Penal Code.

(f) Notwithstanding any other provision of law, a county may retain a case record established pursuant to subdivision (a), and retained pursuant to subdivisions (a) and (c), using either electronic or other alternative storage technologies. Permissible alternative storage technologies shall include, but not be limited to, photography, microphotography, electronically recorded video images on magnetic surfaces, electronic data-processing systems, optical disk storage, or any other electronic medium which does not permit additions, deletions, or changes to the original document and meets the minimum standards or guidelines, or both, as recommended by the American National Standards Institute or the Association for Information and Image Management for recording of permanent records or nonpermanent records, whichever applies. A duplicate copy of any record reproduced shall be deemed an original.

CHAPTER 1062

An act to add Section 14016.10 to the Welfare and Institutions Code, relating to public social services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 14, 1991 Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 14016.10 is added to the Welfare and Institutions Code, to read:

14016.10. The department shall implement the federal requirement under Section 4603 of the Omnibus Budget Reconciliation Act of 1990 (P.L. 101–508) which provides for the continuity of Medi-Cal coverage during pregnancy and the post partum period for pregnant women who were certified as Medi-Cal

eligible.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Congress and the President have enacted legislation which requires this benefit to be provided to Medi-Cal eligible pregnant women by January 1, 1991. In order for pregnant women to receive the services they require, it is necessary that this act take effect immediately.

CHAPTER 1063

An act to amend Section 19605.3 of the Business and Professions Code, relating to horseracing.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 19605.3 of the Business and Professions Code is amended to read:

19605.3. (a) An organization described in Section 19608.2 has executed an agreement approved by the board with the association conducting a racing meeting and the satellite wagering facility. The agreement shall provide, among other things, the conditions for transmission of the signal and that the wagers made at the satellite wagering facility will be included in the appropriate conventional or exotic pool at the racetrack where the racing meeting is conducted.

(b) The accommodations and equipment used in conducting wagering at the satellite wagering facility and their location have been approved by the board.

(c) The method used by the satellite wagering facility to transmit wagers, odds, results, and other data related to wagering has been approved by the board.

(d) (1) Any association or fair that operates a satellite wagering facility shall conduct wagering on all racing that is offered to the satellite wagering facility, except as otherwise provided in Section 19607.5 with respect to the northern zone, as long as the satellite wagering facility is not sustaining a loss on either a day meeting or night meeting, as determined by the board, and, if sustaining a loss on either a day meeting or night meeting, as long as the satellite wagering facility is reimbursed for that loss by either an organization described in Section 19608.2 or an association. Any association that operates a satellite wagering facility may, but is not required to, accept an audiovisual signal. Notwithstanding any other provision of this paragraph, an association that conducts a racing meeting and a fair that operates a satellite wagering facility may agree to provide an audiovisual signal and to accept wagering on less than all of the races.

(2) In calculating the loss, if any, for operating a satellite wagering facility for a night meeting, only the expenses incurred by the satellite wagering facility because of the acceptance of night wagers shall be considered, and no overhead expenses or expenses of the satellite wagering facility which would be incurred regardless of the acceptance of night wagers shall be considered.

(e) Notwithstanding any other law or any agreement under subdivision (a), for purposes of determining license fees and breakage at the racetrack where the racing meeting is conducted, wagers at a satellite wagering facility shall not be included in the conventional or exotic pools of the association conducting the racing meeting.

(f) The horsemen's organization which represents the horsemen at the association which conducts the racing meeting on which wagers are accepted consents to the acceptance of wagers at the satellite wagering facility, except that the association or fair operating the satellite wagering facility may appeal the withholding of consent to the board which may determine that consent is not required.

CHAPTER 1064

An act to amend Section 44258.1 of, and to add and repeal Section 44258.3 of, the Education Code, relating to teaching credentials.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 44258.1 of the Education Code is amended to read:

44258.1. The holder of a credential authorizing instruction in a

self-contained classroom may teach in any of grades 5 to 8, inclusive, in a middle school, provided that he or she teaches two or more subjects for two or more periods per day to the same group of pupils, and, in addition, may teach any of the subjects he or she already is teaching to a separate group of pupils at the same grade level as those pupils he or she already is teaching for an additional period or periods, provided that the additional period or periods do not exceed one-half of the teacher's total assignment.

SEC. 2. Section 44258.3 is added to the Education Code, to read:

44258.3. (a) The governing board of a school district may assign the holder of a credential authorizing instruction in a self-contained classroom to teach any subjects in departmentalized classes in kindergarten or any of grades 1 to 8, inclusive, provided that the governing board verifies that the teacher has adequate knowledge of each subject to be taught and the teacher consents to that assignment. The governing board shall establish policies and procedures for the purpose of verifying the adequacy of subject knowledge on the part of each of those teachers. The governing board shall involve subject matter specialists in the subjects commonly taught in the district in the development of the policies and procedures, and shall include in those policies and procedures all of the following:

(1) One or more ways for teachers to attain subject matter competence other than completion of college or university coursework, including, but not limited to, successful prior teaching experience, self-directed study, completion of internships, study with a mentor teacher, curriculum institutes, work experience, or systematic programs of professional development.

(2) One or more ways to assess subject matter competence, including, but not limited to, observation by subject matter specialists, oral interviews, demonstration lessons, presentation of curricular portfolios, or written examinations.

(3) Specific criteria and standards for verifying adequacy of subject matter knowledge using any of the methods in paragraph (1) or (2), or paragraphs (1) and (2).

(b) Teaching assignments made pursuant to this section shall be reviewed annually by the governing board of the school district, and shall be valid only in that school district. The principal of the school, or other appropriate administrator, shall notify the exclusive representative of the certificated employees for that school district, as provided under Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, of each instance in which a teacher is assigned to teach classes pursuant to this section. Any school district policy or procedures adopted and teaching assignments made pursuant to this section shall be included in the report required by subdivisions (a) and (e) of Section 44258.9.

(c) The Commission on Teacher Credentialing may develop and recommend model criteria, standards, and procedures that may be used by governing boards of school districts in assigning teachers

under this section.

(d) To the extent that funds are provided from the Teacher Credentials Fund for that purpose, the commission shall study the implementation of this section and shall report to the Legislature on or before January 1, 1995, on the nature, scope, and impact of local assignment policies implemented by school districts pursuant to this section.

(e) Nothing in this section shall be construed to alter the effect of Section 44955 with regard to the reduction by a school district governing board of the number of certificated employees.

(f) This section shall be repealed on January 1, 1996, unless a later enacted statute, which becomes effective on or before January 1, 1996, deletes or extends that date on which it is repealed.

CHAPTER 1065

An act to amend Sections 5012, 35107, and 72103 of the Education Code, relating to school boards.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 5012 of the Education Code is amended to read:

5012. In any school district or community college district governing board election the name of any person shall be placed on the ballot, subject to Sections 35107 and 72103, if there is filed with the county clerk having jurisdiction not more than 113 days nor less than 88 days prior to the election a declaration of candidacy substantially in the form set forth in subdivision (a) of Section 5032, containing the appropriate information in the blank spaces and signed by the person whose name is thereby to be placed on the ballot.

No candidate whose declaration of candidacy has been filed for any school district or community college district governing board election or county board of education election may withdraw as a candidate after the 88th day prior to the election.

Notwithstanding any other provision of law, no person shall file nomination papers for more than one district office, including a county board of education office, at the same election.

SEC. 2. Section 35107 of the Education Code is amended to read:

35107. (a) Any person, regardless of sex, who is 18 years of age or older, a citizen of the state, a resident of the school district, a registered voter, and who is not disqualified by the Constitution or laws of the state from holding a civil office, is eligible to be elected or appointed a member of a governing board of a school district

without further qualifications.

(b) An employee of a school district may not be sworn into office as an elected or appointed member of that school district's governing board unless and until he or she resigns as an employee. If the employee does not resign, the employment will automatically terminate upon being sworn into office.

For any individual who is an employee of a school district and an elected or appointed member of that school district's governing board prior to January 1, 1992, this subdivision shall apply when he or she is reelected or reappointed, on or after January 1, 1992, as a member of the school district's governing board.

SEC. 3. Section 72103 of the Education Code is amended to read:

72103. (a) Any person, regardless of sex, who is 18 years of age or older, a citizen of the state, a resident of the community college district, a registered voter, and who is not disqualified by the Constitution or laws of the state from holding a civil office, is eligible to be elected or appointed a member of a governing board of a community college district without further qualifications.

(b) An employee of a community college district may not be sworn into office as an elected or appointed member of that community college district's governing board unless and until he or she resigns as an employee. If the employee does not resign, the employment will automatically terminate upon being sworn into office.

For any individual who is an employee of a community college district and an elected or appointed member of that community college district's governing board prior to January 1, 1992, this subdivision shall apply when he or she is reelected or reappointed, on or after January 1, 1992, as a member of the community college district's governing board. This section does not apply to an individual who is usually employed in an occupation other than teaching and who also is employed part time by the community college district to teach no more than one course per semester or quarter in the subject matter of that individual's occupation.

CHAPTER 1066

An act to add Chapter 9.5 (commencing with Section 42550) to Division 3 of Title 30 of the Public Resources Code, relating to solid waste, and making an appropriation therefor.

[Approved by Governor October 14, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Over 100,000 tons of trash are dumped in California landfills every day. Existing landfill sites are rapidly reaching capacity, and few new sites are available.

(b) People in California use over 30,000,000 telephone directories each year, most of which are not recycled due to the materials used in their production.

(c) Telephone directories are another "necessity of modern life" which have become a growing source of municipal solid waste.

(d) The use of recyclable materials in the production of telephone directories will provide numerous economic and environmental benefits to the state.

(e) Recycling outdated telephone directories will save landfill space, reduce energy consumption, and preserve timber resources.

SEC. 2. Chapter 9.5 (commencing with Section 42550) is added to Division 3 of Title 30 of the Public Resources Code, read:

CHAPTER 9.5. TELEPHONE DIRECTORY RECYCLING

Article 1. Telephone Directory Recycling Goals

42550. For purposes of this chapter, "telephone directory" means a directory which lists the calling numbers of telephones located in this state of which 1,000 or more copies are distributed to the general public.

42551. The board shall conduct a study of the feasibility of requiring that all telephone directories issued or sold in this state be made of materials that will allow for the maximum volume of directories to be recycled. The board shall consult with representatives of telephone directory publishers, including the Yellow Pages Publishers Association, as well as representatives of recycling operators. The board shall make use of public hearings and workshops as a means of providing an opportunity for public comment. The board may create an advisory board consisting of members representing telephone directory publishers, recycling operators, and other interested parties.

42552. The board shall report the results of the study to the Legislature on or before July 1, 1994. The report shall include a finding as to whether recyclable materials are currently available which could be utilized in the manufacture of telephone directories which can and will be recycled without significantly reducing the durability of the directories nor significantly increasing production costs. If the board determines that recyclable telephone directories cannot be cost-effectively produced, the board shall include in its report recommendations on alternative methods of removing telephone directories from the waste stream, such as the development of new recycling techniques.

42553. Article 2 (commencing with Section 42557) shall become operative only if the report required in Section 42552 contains an affirmative finding regarding the feasibility of producing recyclable

telephone directories without significantly reducing the durability of the directories nor significantly increasing production costs.

42554. It is the goal of this state that not less than 30 percent of telephone directories distributed in this state be recycled on and after January 1, 1994, that 35 percent of telephone directories distributed in this state be recycled on and after January 1, 1996, that 40 percent of telephone directories distributed in this state be recycled on and after January 1, 1998, and that 50 percent of telephone directories distributed in this state be recycled on and after January 1, 2000.

42555. If the board determines that the policy goals established by Section 42554 are not being met by January 1, 1995, the board shall make recommendations to the Legislature, on or before January 1, 1996, on strategies for meeting the goals established in Section 42554.

42556. If the board determines that the policy goals established by Section 42554 are not being met by January 1, 1999, the board shall make recommendations to the Legislature, on or before January 1, 2000, on strategies for meeting the goals established in Section 42554.

Article 2. Recyclable Telephone Directories

42557. On and after January 1, 1995, all telephone directories distributed within the state shall be made from materials that will allow for the maximum volume of directories to be recycled, as determined by the board. If reasonably feasible, it is the goal of this state that existing waste paper recyclers make an effort to accept telephone directories for recycling.

42558. For the purposes of implementing and enforcing this chapter, the board shall adopt general guidelines regarding the materials which may be used in the production of telephone directories which can and will be recycled. The guidelines shall be reviewed and promptly updated, as necessary, in order to avoid delay in the introduction of new materials or new recycling processes which will advance efforts to recycle telephone directories.

SEC. 3. The sum of one hundred thousand dollars ($100,000) is hereby appropriated from the Integrated Waste Management Account in the Integrated Waste Management Fund to the California Integrated Waste Management Board for the implementation of this act.

CHAPTER 1067

An act to amend Sections 7863, 8275, 8282, 8284, and 9011 of, and to add Section 9052 to, the Fish and Game Code, relating to fish, and making an appropriation therefor.

[Approved by Governor October 14, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 7863 of the Fish and Game Code is amended to read:

7863. This article shall remain in effect only until January 1, 1997, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1997, deletes or extends that date.

SEC. 2. Section 8275 of the Fish and Game Code is amended to read:

8275. Unless the provision or context otherwise requires, the definitions in this section govern the construction of this article.

(a) "Dungeness crab" or "market crab" means crab of the species Cancer magister.

(b) "Rock crab" means any crab of the genus Cancer other than dungeness crab and includes rock crab (Cancer antennarius), red crab (Cancer productus), and yellow crab (Cancer anthonyi).

SEC. 3. Section 8282 of the Fish and Game Code is amended to read:

8282. (a) Subject to this article and Article 1 (commencing with Section 9000) of Chapter 4, rock crab may be taken in traps in any waters of the state at any time, except in Districts 19A, 19B, and 21 and those portions of District 20 lying on the north and east sides of Santa Catalina Island north of Southeast Rock. Rock crab (Cancer antennarius), red crab (Cancer productus), or yellow crab (Cancer anthonyi), which is less than 4¼ inches, measured in a straight line through the body, from edge of shell to edge of shell at the widest part, shall not be taken, possessed, bought, or sold.

(b) Any person taking rock crab shall carry a measuring device and shall measure any rock crab immediately upon removal from the trap. If the person determines that the rock crab is undersize, the person shall return it to the water immediately.

SEC. 4. Section 8284 of the Fish and Game Code is amended to read:

8284. (a) Subject to this article and Article 1 (commencing with Section 9000) of Chapter 4, crab traps, as described in Section 9011, may be used to take dungeness crab for commercial purposes. Any fish may be taken incidentally in crab traps being used to take dungeness crab.

(b) Any other species taken incidentally in a crab trap being used to take rock crab, except as provided in this subdivision, shall be

released. The following species may be taken incidentally in crab traps being used to take rock crab under a permit issued pursuant to Section 9001 in Districts 19 and 118.5, and any other species taken incidentally with a crab trap being used to take rock crab shall be released:

(1) California sheephead.

(2) Kellet's whelk.

(3) Octopus.

(4) Crabs, other than the genus Cancer.

SEC. 5. Section 9011 of the Fish and Game Code is amended to read:

9011. (a) (1) Subject to Article 6 (commencing with Section 8275) of Chapter 2, dungeness crab, as defined in Section 8275, may be taken with dungeness crab traps.

(2) A dungeness crab trap may have any number of openings of any size. However, every dungeness crab trap shall have at least two rigid circular openings of not less than 4¼ inches, inside diameter, on the top or side of the trap. If both of the openings are located on the side of the trap, at least one of the openings shall be located so that at least one-half of the opening is in the upper half of the trap.

(3) Any rock crab taken with a crab trap used pursuant to this subdivision to take dungeness crab shall be immediately returned to the waters from which it was taken. No person shall possess rock crab aboard any vessel when the vessel is being used to take dungeness crab.

(b) (1) Subject to Article 6 (commencing with Section 8275) of Chapter 2, rock crab, as defined in Section 8275, may be taken with rock crab traps.

(2) A rock crab trap may have any number of openings of any size. However, a rock crab trap constructed of wire mesh with an inside mesh measurement of not less than 1⅞ inches by 3⅞ inches, with the 3⅞ inch measurement parallel to the floor, shall have at least one rigid circular opening of not less than 3¼ inches, inside diameter, located on any outside wall of the rearmost chamber of the crab trap and shall be located so that at least one-half of the opening is in the upper half of the trap. Rock crab traps constructed of other material shall have at least two rigid circular openings of not less than 3¼ inches, inside diameter, on the top or side of the rearmost chamber of the trap. If both of the openings are located on the side of the trap, at least one of the openings shall be located so that at least one-half of the opening is in the upper half of the trap. No rigid circular opening, as required, shall extend more than ½ inch beyond the plane of the wall side or top of the trap in which it is located, and it shall be clearly accessible to any crab which may be in the trap.

(3) No person shall possess any lobster aboard a vessel while the vessel is being used pursuant to this subdivision to take rock crab. Any dungeness crab taken with a crab trap used pursuant to this subdivision to take rock crab shall be immediately returned to the waters from which it was taken. No person shall possess dungeness

crab aboard any vessel when the vessel is being used to take rock crab.

SEC. 6. Section 9052 is added to the Fish and Game Code, to read:

9052. (a) Slurp guns may be used to take fish in fish and game districts 6, 7, 10, 17, 18, 19, 20, and 20A.

(b) As used in this section, "slurp gun" means a self-contained, handheld device used to capture fish by rapidly drawing water containing fish into a closed chamber.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1068

An act to add Chapter 15.7 (commencing with Section 67390) to Part 40 of the Education Code, relating to postsecondary education.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Chapter 15.7 (commencing with Section 67390) is added to Part 40 of the Education Code, to read:

CHAPTER 15.7. RAPE AND SEXUAL ASSAULT EDUCATION PROGRAMS

67390. The Legislature hereby finds and declares all of the following:

(a) College students are more vulnerable to rape than any other age group.

(b) The majority of reported victims and offenders of rape are of college age.

(c) At most colleges and universities today, few students, faculty, or staff are alerted to crucial information about sexual assaults, especially acquaintance rape. Many people have misconceptions about these crimes that enhance their vulnerability to victimization.

(d) Colleges should implement a variety of effective educational programs to inform all students and other college personnel about sexual assaults on campus. These programs should be implemented

to disseminate factual information about sexual assault, promote open discussion, encourage reporting, and provide information about prevention to faculty, staff, and both male and female students.

(e) Colleges need to emphasize to students the seriousness of the offenses of rape and sexual assault.

(f) Students need critical factual information about the prevalence of stranger and acquaintance rape, how and where it happens, its impact, and the relationship between alcohol and drug use and sexual assaults.

(g) It is not sufficient to develop policies, brochures, and other informational materials; once these materials are developed they must be distributed in a way that emphasizes their importance and stimulates the interest of students.

(h) Fraternities, sororities, and other student organizations operating on campus should undergo rape-awareness training each year before they are permitted to hold any events.

(i) Residence life student staff and all students living in campus recognized housing should receive acquaintance rape training every semester.

(j) Comprehensive information about acquaintance rape and other kinds of sexual assaults should be provided at all new student orientation programs and at any campus program that students are required to attend.

(k) Colleges should provide special sexual assault seminars for all athletic coaches and administrators and members of athletic teams. These seminars should take place during a student athlete orientation program or prior to the first team meeting. Seminars should use the campus media, newspapers, radio, and television to heighten awareness of campus violence and its prevention.

(*l*) To provide appropriate information and counseling to sexual assault victims, all college student services professional staff members or student affairs professional staff members and campus police should participate in annual sexual assault education seminars.

67391. The governing board of each community college district, the Trustees of the California State University, the Board of Directors of the Hastings College of the Law, and the Regents of the University of California shall, within existing resources, adopt and implement a rape and sexual assault education program for, and ensure maximum feasible participation of, students and student services professional staff members or student affairs professional staff members at each of their respective campuses or other facilities.

67392. No provision of this chapter shall apply to the University of California unless the Regents of the University of California, by resolution, make that provision applicable.

67393. Notwithstanding any other provision of this chapter, this chapter shall not apply to the California Community Colleges unless and until the Legislature makes funds available to the California Community Colleges for the purposes of this chapter.

CHAPTER 1069

An act to amend Sections 14538, 14552, 14554, 14570, 14571, 14572, 14573.5, and 14591 of, to add Sections 14573.7, 14591.1, 14591.2, 14591.3, 14591.4, 14591.5, 14593, 14594, and 14595 to, to repeal Section 14541.3 of, and to repeal and add Sections 14539 and 14541 of, the Public Resources Code, relating to beverage containers, and making an appropriation therefor.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 14538 of the Public Resources Code is amended to read:

14538. (a) The department shall certify the operators of recycling centers pursuant to this section. The director shall adopt, by regulation, a procedure for the certification of recycling centers, including standards and requirements for certification. These regulations shall require that all information be submitted to the department under penalty of perjury. A recycling center shall meet all of the standards and requirements contained in the regulations for certification. The regulations shall require, but shall not be limited to requiring, that both of the following conditions be met for certification:

(1) The operator of the recycling center demonstrates, to the satisfaction of the department, that the operator will operate in accordance with this division.

(2) The operator of the recycling center shall notify the department promptly of any material change in the nature of his or her operations which conflicts with information submitted in the operator's application for certification.

(b) A certified recycling center shall comply with all of the following requirements for operation:

(1) The operator of the recycling center shall not pay a refund value for, or receive a refund value from any processor for, any food or drink packaging material or any beverage container or other product which does not have a refund value established pursuant to Section 14560.

(2) The operator of a recycling center shall take those actions which satisfy the department to prevent the payment of a refund value for any food or drink packaging material or any beverage container or other product which does not have a refund value established pursuant to Section 14560.

(3) Unless exempted pursuant to subdivision (b) of Section 14572, a certified recycling center shall accept, and pay at least the refund value for, all empty beverage containers, regardless of type.

(4) A certified recycling center shall not pay any refund values,

processing fees, or administrative fees to a noncertified recycler.

(5) A certified recycling center shall not pay any refund values, processing fees, or administrative fees on empty beverage containers or other containers which the certified recycling center knew, or should have known, were coming into the state from out of the state.

(6) A certified recycling center shall not claim refund values, processing fees, or administrative fees on empty beverage containers which the certified recycling center knew, or should have known, were received from noncertified recyclers or on beverage containers which the certified recycling center knew, or should have known, come from out of the state.

(7) A certified recycling center shall prepare and maintain the following documents involving empty beverage containers, as specified by the department by regulation:

(A) Shipping reports which are required to be prepared by the recycling center, or which are required to be obtained from other recycling centers.

(B) Consumer transaction receipts.

(C) Consumer transaction logs.

(D) Rejected container receipts on materials subject to this division.

(E) Receipts for transactions with beverage manufacturers on materials subject to this division.

(F) Receipts for transactions with beverage distributors on materials subject to this division.

(G) Documents authorizing the recycling center to cancel empty beverage containers.

(H) Weight tickets.

(8) In addition to the requirements of paragraph (7), a certified recycling center shall cooperate with the department and make available its records of scrap transactions when the review of these records is necessary for an audit or investigation by the department.

(9) The department may recover, in restitution pursuant to paragraph (5) of subdivision (c) of Section 14591.2, payments made from the fund to the certified recycling center pursuant to Section 14573.5 which are based on the documents specified in paragraph (7) and which are not prepared or maintained in compliance with the department's regulations and which do not allow the department to verify claims for program payments.

SEC. 2. Section 14539 of the Public Resources Code is repealed.

SEC. 3. Section 14539 is added to the Public Resources Code, to read:

14539. (a) The department shall certify processors pursuant to this section. The director shall adopt, by regulation, requirements and standards for certification. The regulations shall require, but shall not be limited to requiring, that both of the following conditions be met for certification:

(1) The processor demonstrates to the satisfaction of the department that the processor will operate in accordance with this

division.

(2) The processor notifies the department promptly of any material change in the nature of the processor's operations which conflicts with the information submitted in the operator's application for certification.

(b) A certified processor shall comply with all of the following requirements for operation:

(1) The processor shall not pay a refund value for, or receive a refund value from the department for, any food or drink packaging material or any beverage container or other product which does not have a refund value established pursuant to Section 14560.

(2) The processor shall take those actions which satisfy the department to prevent the payment of a refund value for any food or drink packaging material or any beverage container or other product which does not have a refund value established pursuant to Section 14560.

(3) Unless exempted pursuant to subdivision (b) of Section 14572, the processor shall accept, and pay at least the refund value for, all empty beverage containers, regardless of type, for which the processor is certified.

(4) A processor shall not pay any refund values, processing fees, or administrative fees to a noncertified recycler. A processor may pay refund values, processing fees, or administrative fees to any entity which is identified by the department on its list of certified recycling centers.

(5) A processor shall not pay any refund values, processing fees, or administrative fees on empty beverage containers or other containers which the processor knew, or should have known, were coming into the state from out of the state.

(6) A processor shall not claim refund values, processing fees, or administrative fees on empty beverage containers which the processor knew, or should have known, were received from noncertified recyclers or on beverage containers which the processor knew, or should have known, come from out of the state. A processor may claim refund values, processing fees, or administrative fees on any empty beverage container which does not come from out of the state and which is received from any entity which is identified by the department on its list of certified recycling centers.

(7) A processor shall take the actions necessary and approved by the department to cancel containers to render them unfit for redemption.

(8) A processor shall prepare or maintain the following documents involving empty beverage containers, as specified by the department by regulation:

(A) Shipping reports which are required to be prepared by the processor or which are required to be obtained from recycling centers.

(B) Processor invoice reports.

(C) Cancellation verification documents.

(D) Documents authorizing recycling centers to cancel empty beverage containers.

(E) Processor-to-processor transaction receipts.

(F) Rejected container receipts on materials subject to this division.

(G) Receipts for transactions with beverage manufacturers on materials subject to this division.

(H) Receipts for transactions with distributors on materials subject to this division.

(I) Weight tickets.

(J) Market development payment reports.

(9) In addition to the requirements of paragraph (7), a processor shall cooperate with the department and make available its records of scrap transactions when the review of these records is necessary for an audit or investigation by the department.

(10) The department may recover, in restitution pursuant to paragraph (5) of subdivision (c) of Section 14591.2, any payments made by the department to the processor pursuant to Section 14573 which are based on the documents specified in paragraph (8) and which are not prepared or maintained in compliance with the department's regulations and which do not allow the department to verify claims for program payments.

SEC. 4. Section 14541 of the Public Resources Code is repealed.

SEC. 5. Section 14541 is added to the Public Resources Code, to read:

14541. (a) The department may issue any certificate pursuant to an initial application for certification as a probationary certificate, and the department may issue any other certificate as a probationary certificate pursuant to an enforcement action.

(b) A probationary certificate issued pursuant to this subdivision shall be issued for a limited period of not more than one year. Before the end of the probationary period, the department shall issue a nonprobationary certificate, extend the probationary period for not more than one year, or, after notice to the probationary certificate holder, terminate the probationary certificate. Subsequent to the termination, the former probationary certificate holder may request a hearing, which shall be conducted in the same form as a hearing for an applicant whose original application for certification is denied.

(c) If conditions are imposed on the certificate holder as part of a disciplinary proceeding conducted pursuant to Section 14591.2, the certificate holder's certificate shall be considered probationary. If, at any time, the certificate holder violates any term or condition of the probationary certificate, the certification may be revoked or suspended, after three days' notice, without any further hearing by the department.

SEC. 6. Section 14541.3 of the Public Resources Code is repealed.

SEC. 7. Section 14552 of the Public Resources Code is amended to read:

14552. (a) The department shall establish and implement an auditing system to ensure that the information collected, and refund values and redemption payments paid pursuant to this division, comply with the purposes of this division. Notwithstanding Sections 14573 and 14573.5, the auditing system adopted by the department may include prepayment or postpayment controls.

(b) The department may audit or investigate any action taken during the two-year period before the onset of the audit or investigation and may determine if there was compliance with this division during any, or all, of that two-year period. Notwithstanding any other provision of law establishing a shorter statute of limitation, the department may take an enforcement action, including, but not limited to, an action for restitution or to impose penalties, at any time within two years after the department discovers, or with reasonable diligence, should have discovered, a violation of this division or the regulations adopted pursuant to this division.

(c) During the conduct of an audit or investigation, the entity which is the subject of the audit or investigation shall provide the department with access to any relevant record, which, in the department's judgment, the department determines is necessary to carry out this section to verify compliance with this division and the regulations adopted pursuant to this division. The department shall protect any information obtained pursuant to this section in accordance with Section 14554, except that this section does not prohibit the department from releasing any information which the department determines to be necessary in the course of an enforcement action.

(d) The auditing system adopted by the department shall allow for reasonable shrinkage in material due to moisture, dirt, and foreign material. The department, after an audit by a qualified auditing firm and a hearing, shall adopt a standard to be used to account for shrinkage and shall incorporate this standard in the audit process.

(e) If the department prevails against any entity in any civil or administrative action brought pursuant to this division, and money is owed to the department as a result of the action, the department may offset the amount against amounts claimed by the entity to be due to it from the department. The department may take this offset by withholding payments from the entity or by authorizing all processors to withhold payment to a certified recycling center.

(f) If the department determines, pursuant to an audit or investigation, that a distributor or beverage manufacturer has overpaid the redemption payment or processing fee, the department may do either of the following:

(1) Offset the overpayment against future payments.

(2) Refund the payment pursuant to Article 3 (commencing with Section 13140) of Chapter 2 of Part 3 of Division 3 of Title 2 of the Government Code.

SEC. 8. Section 14554 of the Public Resources Code is amended

to read:

14554. The department shall establish procedures to protect any privileged, confidential, commercial, or financial information obtained while collecting information for carrying out the requirements of this division. Any privileged, confidential, commercial, or financial information obtained in confidence by the department is not a public record for purposes of Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

SEC. 9. Section 14570 of the Public Resources Code is amended to read:

14570. Every dealer shall identify, by a clear and conspicuous sign of at least 10 inches by 15 inches posted at each public entrance to the dealer's place of business, which specifies one of the following:

(a) The name and address, as provided by the department, of at least the certified recycling center, location, or locations, nearest to the dealer, which redeems all types of empty beverage containers at one location during at least 30 hours per week with a minimum of five hours of operation occurring during periods other than from Monday to Friday, from 9 a.m. to 5 p.m.

(b) One of the following procedures for redeeming beverage containers is available, pursuant to Section 14571.6:

(1) Beverage containers may be redeemed at all open cash registers within this place of business.

(2) Beverage containers may be redeemed at one specific location within the dealer's place of business which is identified on the sign.

SEC. 10. Section 14571 of the Public Resources Code is amended to read:

14571. (a) Except as otherwise provided in this chapter, there shall be at least one certified recycling center or location within every convenience zone which accepts and pays the refund value, if any, at one location for all types of empty beverage containers and is open for business during at least 30 hours per week with a minimum of five hours of operation occurring during periods other than from Monday to Friday, from 9 a.m. to 5 p.m.

(b) (1) Notwithstanding subdivision (a), the department may require a certified recycling center to operate 15 of its 30 hours of operation other than during 9 a.m. to 5 p.m.

(2) Notwithstanding subdivision (a), the department may certify a recycling center which will operate less than 30 hours per week, if the following conditions are met:

(A) The convenience zone to be served is in a remote rural area.

(B) The operation to be certified is open to conduct a business other than recycling for less than 30 hours per week.

(C) The operation to be certified will be open for business within the meaning of subdivision (b) of Section 14571 during the entire time it is open to conduct a business other than recycling.

(D) The needs of the community and the goals of this division will be best served by certification of the operation as a recycling center.

(3) Before establishing operating hours for a certified recycling center pursuant to paragraph (1) or (2), the department shall make a determination that this action is necessary to further the goals of this division and shall also conduct a public hearing which will consider consumer convenience as well as the economic impact on the certified recycling center, public health and safety, local zoning requirements, neighborhood opinion, and any other relevant factors.

(c) For purposes of this section, if the recycling center is staffed and is not a reverse vending machine, a center is "open for business" if all of the following requirements are met:

(1) An employee of the certified recycling center or location is present during the hours of operation and available to the public to accept containers and to pay the refund values.

(2) In addition to the sign specified in subdivision (g), a sign having a minimum size of two feet by two feet is posted at the certified recycling center or location indicating that the center or location is open. Where allowed by local zoning requirements or where zoning restrictions apply, the sign shall be of the maximum allowable size.

(3) The prices paid, by weight or per container, are posted at the location.

(d) Except as provided in subdivision (e), for the purpose of this section, if the recycling center consists of reverse vending machines or other unmanned automated equipment, the center is "open for business" if the equipment is properly functioning, accepting all types of empty beverage containers at the recycling location, and paying posted refund values no less than the minimums required by this division.

(e) If a recycling center consists of reverse vending machines or other automated equipment, the recycling center is open for business if the equipment is properly functioning, and accepting all types of empty beverage containers at one physical recycling location within the recycling location.

(f) Whenever a recycling center which is a reverse vending machine is not open for business during the 30 hours of operation required and posted pursuant to this section and Section 14570, the dealer which is hosting the reverse vending machine at its place of business shall redeem all empty beverage container types at all open cash registers or one designated location in the store, as specified on the sign required pursuant to subdivision (g).

(g) In addition to the sign specified in paragraph (2) of subdivision (c), each reverse vending machine shall be posted with a clear and conspicuous sign on or near the reverse vending machine which states that beverage containers may be redeemed by the host dealer if the machine is nonoperational at any time during the required 30 hours of operation, pursuant to subdivision (f). The department shall determine the size and location of the sign and the message required to be printed on the sign.

SEC. 11. Section 14572 of the Public Resources Code is amended

to read:

14572. (a) A certified recycling center shall accept from any consumer or dropoff or collection program any empty beverage container, and shall pay to the consumer or dropoff or collection program the refund value of the beverage container. The center may pay the refund value based on the weight of returned containers.

(b) Any recycling center or processor which was certified by the department as of June 30, 1988, which was in existence on January 1, 1986, and which refused, as of January 1, 1986, to accept at a particular location a certain type of empty beverage container may continue to refuse to accept at the location the type or types of empty beverage containers that the recycling center or processor refused to accept as of January 1, 1986. Any certified recycling center which refuses, pursuant to this subdivision, to accept a certain type or types of empty beverage containers is not eligible to receive convenience incentive payments unless the center agrees to accept all types of empty beverage containers. This subdivision does not preclude the certified recycling center from receiving a convenience incentive payment for beverage containers redeemed at locations which do accept all types of containers. Any recycling center which is certified after June 30, 1988, shall accept all beverage container types after January 1, 1989.

(c) (1) Only a certified recycling center may pay the refund value to consumers or dropoff or collection programs. No person shall pay a noncertified recycler for empty beverage containers an amount which exceeds the current scrap value for each container type, which shall be determined in the following manner:

(A) For a plastic or glass beverage container, the current scrap value shall be determined by the department.

(B) For an aluminum beverage container, the current scrap value shall be not greater than the amount paid to the processor for that aluminum beverage container, on the date the container was purchased, by the location of end use, as defined in Section 2550 of Title 14 of the Code of California Regulations as it read on January 1, 1992.

(2) No person may receive or retain, for empty beverage containers which come from out of state, any refund values, processing fee or administrative fees, for which a claim is made to the department against the fund.

(3) Paragraph (1) does not affect curbside programs under contract with cities or counties.

SEC. 12. Section 14573.5 of the Public Resources Code is amended to read:

14573.5. Except as provided in Section 14573.6, a processor shall pay to a certified recycling center, dropoff or collection program, or curbside program, for all types of empty beverage containers, by type of beverage container, received by the processor from a recycling center, curbside program, or dropoff or collection program, upon receipt by the certified processor of a shipping report

from the supplier of the material, in the form adopted by the regulations adopted by the department, the sum of all of the following amounts:

(a) The refund value.

(b) One-half of 1 percent of the refund value for administrative costs.

(c) The portion of the processing fee established pursuant to Section 14575 representing the actual cost and financial return incurred by the recycling center, as determined by the department.

The processor shall make this payment within two working days of the date the processor receives these empty beverage containers, or within the time which the department determines to be necessary and adequate. Under the procedures authorized by the department, the department may authorize a certified recycling center to cancel containers, and a certified processor may authorize a certified recycling center to cancel containers on behalf of the certified processor.

If the department has set up an accounts receivable procedure or other procedure for seeking the payment of money improperly obtained by a certified recycling center from the fund, the department may reimburse the processor for its payments to that certified recycling center.

SEC. 13. Section 14573.7 is added to the Public Resources Code, to read:

14573.7. Notwithstanding Sections 14573 and 14573.5, the department may require a recycling center, pursuant to a prepayment review taken pursuant to subdivision (a) of Section 14552, to submit consumer transaction logs and consumer transaction receipts as support documentation for shipping reports submitted to processors. The department may, pursuant to this section, authorize a processor to withhold refund value payments to a recycling center. The department may suspend the certification of a recycling center without a hearing if the recycling center fails to comply with the documental submittal requirements of this section, upon providing notice of these requirements. The recycling center which is the subject of the suspension may then request a hearing on the suspension, but the request for a hearing shall not stay the suspension. A hearing requested pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 14. Section 14591 of the Public Resources Code, as amended by Section 15 of Chapter 1274 of the Statutes of 1990, is amended to read:

14591. (a) Except as provided in subdivision (b), in addition to any other applicable civil or criminal penalties, any person convicted of a violation of this division is guilty of an infraction, which is punishable by a fine of one hundred dollars ($100) for each initial separate violation and not more than one thousand dollars ($1,000) for each subsequent separate violation per day.

(b) Every person who, with intent to defraud, submits a false or fraudulent claim for payment pursuant to Section 14573 or 14573.5 or who, with intent to defraud, fails to accurately report the number of beverage containers sold, as required by subdivision (b) of Section 14550, or who, with intent to defraud, fails to make payments as required by Section 14574 or who, with intent to defraud, redeems containers which have already been redeemed or returns redeemed containers to the marketplace for redemption with intent to defraud, or who submits a false or fraudulent claim for convenience incentive payments pursuant to Section 14585, is guilty of fraud. If the money obtained or withheld exceeds four hundred dollars ($400), the fraud is punishable by imprisonment in the county jail for not more than one year or by a fine not exceeding ten thousand dollars ($10,000), or by both, or by imprisonment in the state prison for 16 months, two years, or three years, or by a fine not exceeding twenty-five thousand dollars ($25,000) or twice the late or unmade payments plus interest, whichever is greater, or by both fine and imprisonment. If the money obtained or withheld equals, or is less than, four hundred dollars ($400), the fraud is punishable by imprisonment in the county jail for not more than six months or by a fine not exceeding one thousand dollars ($1,000), or by both.

(c) The department shall suspend all convenience incentive payments received by any certified recycling center for up to six months, but not less than two months, from the date of a third violation assessed upon that recycling center pursuant to Section 14591.1 within a one-year period, commencing January 1, 1990.

(d) This section shall remain in effect until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1993, deletes or extends that date.

SEC. 15. Section 14591 of the Public Resources Code, as amended by Section 16 of Chapter 1274 of the Statutes of 1990, is amended to read:

14591. (a) Except as provided in subdivision (b), in addition to any other applicable civil or criminal penalties, any person convicted of a violation of this division is guilty of an infraction, which is punishable by a fine of one hundred dollars ($100) for each initial separate violation and not more than one thousand dollars ($1,000) for each subsequent separate violation per day.

(b) Every person who, with intent to defraud, submits a false or fraudulent claim for payment pursuant to Section 14573 or 14573.5 or who, with intent to defraud, fails to accurately report the number of beverage containers sold, as required by subdivision (b) of Section 14550, or who, with intent to defraud, fails to make payments as required by Section 14574 or who, with intent to defraud, redeems containers which have already been redeemed or returns redeemed containers to the marketplace for redemption with intent to defraud, or who submits a false or fraudulent claim for convenience incentive payments pursuant to Section 14585, is guilty of fraud. If the money obtained or withheld exceeds four hundred dollars ($400), the fraud

is punishable by imprisonment in the county jail for not more than one year or by a fine not exceeding ten thousand dollars ($10,000), or by both, or by imprisonment in the state prison for 16 months, two years, or three years, or by a fine not exceeding twenty-five thousand dollars ($25,000) or twice the late or unmade payments plus interest, whichever is greater, or by both fine and imprisonment. If the money obtained or withheld equals, or is less than, four hundred dollars ($400), the fraud is punishable by imprisonment in the county jail for not more than six months or by a fine not exceeding one thousand dollars ($1,000), or by both.

(c) This section shall become operative on January 1, 1993.

SEC. 16. Section 14591.1 is added to the Public Resources Code, to read:

14591.1. (a) The department may assess penalties pursuant to this division only after notice and hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. Each violation of this division is a separate violation and each day of the violation is a separate violation. The department shall deposit all revenues from civil penalties in the fund.

(b) Any person who intentionally or negligently violates this division may be assessed a civil penalty by the department of up to five thousand dollars ($5,000) for each separate violation, or for continuing violations, for each day that violation occurs.

(c) Any person who violates this division by an action not subject to subdivision (b) may be assessed a civil penalty by the department of up to one thousand dollars ($1,000) for each separate violation, or for continuing violations, for each day that violation occurs.

(d) No person may be liable for a civil penalty imposed under subdivision (b) and for a civil penalty imposed under subdivision (c) for the same act or failure to act.

SEC. 17. Section 14591.2 is added to the Public Resources Code, to read:

14591.2. (a) The department may take disciplinary action against any certificate holder, officer, director, or managing employee. Except as otherwise provided in this division, the department shall provide a notice and hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code before taking any disciplinary action against a certificate holder.

(b) All of the following are grounds for disciplinary action, in the form determined by the department in accordance with subdivision (c):

(1) The certificate holder engaged in fraud or deceit to obtain a certificate.

(2) The certificate holder engaged in dishonesty, incompetence, negligence, or fraud in performing the functions and duties of a certificate holder.

(3) The certificate holder violated this division or any regulation

adopted pursuant to this division, including, but not limited to, any requirements concerning auditing, reporting, standards of operation, or being open for business.

(4) The certificate holder, any managing employee of the certificate holder, or any person or entity with a controlling ownership interest in the holder of the certificate is convicted of any crime of moral turpitude or fraud, any crime involving dishonesty, or any crime substantially related to the qualifications, functions, or duties of a certificate holder.

(c) The department may take disciplinary action pursuant to this section, by taking any one of, or any combination of, the following:

(1) Immediate revocation of the certificate or revocation of a certificate as of a specific date in the future.

(2) Immediate suspension of the certificate for a specified period of time or suspension of the certificate as of a specific date in the future.

(3) Imposition on the certificate of any condition which the department determines would further the goals of this division.

(4) Issuance of a probationary certificate with conditions determined by the department.

(5) Collection of amounts in restitution of any money improperly paid to the certificate holder from the fund.

(6) Imposition of civil penalties pursuant to Section 14591.1.

(d) The department may do any of the following in taking disciplinary action pursuant to this section:

(1) If a certificate holder holds certificates to operate at more than one site or is certified as both a processor and a recycling center, the department may simultaneously revoke, suspend, or impose conditions upon some, or all of, the certificates held by the certificate holder.

(2) If the certificate holder is an officer, director, partner, manager, employee, or the owner of a controlling ownership interest of another certificate holder, that other certificate holder's certificate may also be revoked, superseded, or conditioned by the department in the same proceeding, if the other certificate holder is given notice of that proceeding, or in a subsequent proceeding.

(3) If, pursuant to notice and a hearing conducted by the director or the directors' deputy, the department determines that the continued operation of a certified entity poses an immediate and significant threat to the fund, the department may order the suspension or revocation of the certificate of the certificate holder or the issuance of a probationary certificate imposing reasonable terms and conditions. The department shall transcribe the testimony at the hearing and, upon request, prepare a transcript. For purposes of this section, a significant threat to the fund means a possible loss to the fund of at least fifty thousand dollars ($50,000). The order of suspension or revocation or issuance of a probationary certificate imposing terms or conditions shall become effective upon written notice of the order to the certificate holder. The certificate holder

may, upon receiving the notice of the order, appeal the order by requesting a hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. A request for a hearing or appeal from an order of the department does not stay the action of the department for which the notice of the order is given.

SEC. 18. Section 14591.3 is added to the Public Resources Code, to read:

14591.3. In any civil or administrative action brought pursuant to this division in which the department prevails, the department may assess against the defendant or respondent any costs and fees, including attorneys' and experts' fees, and the cost of the investigation and hearing, which are incurred by the fund, whether paid or payable from the fund, and are a result of bringing the civil or administrative action against the defendant or respondent. In the same action, the defendant or respondent may claim from the department any costs and fees incurred in defending or responding to any action brought by the department in which the defendant or respondent prevails, upon a finding that the department's action was clearly frivolous or lacking in significant merit.

SEC. 19. Section 14591.4 is added to the Public Resources Code, to read:

14591.4. (a) In addition to any other remedies, penalties, and disciplinary actions provided by this division or otherwise, the department may seek restitution of any money illegally paid to any person from the fund, plus interest at the rate earned on the Pooled Money Investment Account of the total amount.

(b) A certificate holder is liable to the department for restitution pursuant to paragraph (5) of subdivision (c) of Section 14591.2 for payments made by the department to the certificate holder which are based on improperly prepared or maintained documents, as specified in paragraph (8) of subdivision (b) of Section 14538 and paragraph (9) of subdivision (b) of Section 14539.

(c) If the department has a civil cause of action for restitution pursuant to subdivisions (a) and (b), or if the department has a civil cause of action against a certificate holder for restitution under any other circumstance, the department may seek restitution in a hearing conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The hearing may take place at the same time as a hearing to impose disciplinary action on a certificate holder.

(d) Notwithstanding subdivisions (b) and (c) of Section 14591.1, if the department collects amounts in full restitution for money paid, the department may impose a penalty of not more than one hundred dollars ($100) for each separate violation, or for continuing violations, for each day that violation occurs.

SEC. 20. Section 14591.5 is added to the Public Resources Code, to read:

14591.5. After the time for judicial review under Section 11523 of

the Government Code has expired, the department may apply to the clerk of the small claims court, municipal court, or superior court, depending on the jurisdictional amount and any other remedy sought, in the county where the penalties, restitution, or other remedy was imposed by the department, for a judgment to collect any unpaid civil penalties or restitution or to enforce any other remedy provided by this division. The application, which shall include a certified copy of the final agency order or decision, shall constitute a sufficient showing to warrant the issuance of the judgment. The court clerk shall enter the judgment immediately in conformity with the application. The judgment so entered shall have the same force and effect as, and shall be subject to all the provisions of law relating to, a judgment in a civil action, and may be enforced in the same manner as any other judgment of the court in which it is entered. The court shall make enforcement of the judgment a priority.

SEC. 21. Section 14593 is added to the Public Resources Code, to read:

14593. Notwithstanding subdivisions (b) and (c) of Section 14591, the department may assess a civil penalty of up to 15 percent of the amount due for payment, and interest at the rate earned by the Pooled Money Investment Account, on distributors and beverage manufacturers for underpayment or late payment of the redemption payments for containers to the fund. The department may examine the accounts and records of distributors and beverage manufacturers which pay or should pay a redemption payment. No penalty shall be assessed until 30 days after the department has notified the distributor or manufacturer of the penalty assessment, and the amount due for payment and interest has not been paid.

SEC. 22. Section 14594 is added to the Public Resources Code, to read:

14594. (a) Notwithstanding subdivisions (b) and (c) of Section 14591, the department may assess a civil penalty of up to 15 percent of the amount due for payment, and interest at the rate earned by the Pooled Money Investment Account, on any beverage manufacturer which fails to pay a processing fee required pursuant to Section 14575. The department may examine the accounts and records of any beverage manufacturer which pays or should pay a processing fee. No penalty shall be assessed until 30 days after the department has notified the manufacturer of the penalty assessment, and the amount due for payment and interest has not been paid.

(b) If the department determines that an audit of a beverage manufacturer shows that there has been an underpayment of a processing fee, the department may examine the records concerning beverage container sales of any container manufacturer who supplied the beverage containers to the beverage manufacturer.

SEC. 23. Section 14595 is added to the Public Resources Code, to read:

14595. The department may assess upon any person, entity, or

operation which redeems, attempts to redeem, or aids in the redemption of, empty beverage containers which have already been redeemed, a civil penalty of up to ten thousand dollars ($10,000) per transaction, or an amount equal to three times the damage or potential damage, whichever is greater, plus costs as provided in Section 14591.3, pursuant to notice and hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 24. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. However, no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1070

An act to amend Section 4027.6 of, and to repeal Section 4027.5 of, the Health and Safety Code, relating to public water systems, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 4027.5 of the Health and Safety Code is repealed.

SEC. 2. Section 4027.6 of the Health and Safety Code is amended to read:

4027.6. (a) The department may grant a variance or variances from primary drinking water standards to a public water system. Any variance granted pursuant to this subdivision shall conform to the requirements established under the federal Safe Drinking Water Act, as amended (42 U.S.C. Sec. 300g-4).

(b) (1) In addition to the authority provided in subdivision (a), at the request of the Board of Directors of the Big Bear City

Community Services District, or the Twenty-nine Palms Water District, or the Kinneola Irrigation District, or the Riverdale Public Utility District, the department shall grant a variance from the primary drinking water standard adopted by the department for fluoride. A variance granted by the department pursuant to this subdivision shall prohibit fluoride levels in excess of 75 percent of the maximum contaminant level established in the national primary drinking water regulation adopted by the United States Environmental Protection Agency for fluoride, or three milligrams per liter, whichever is higher, shall be valid for a period of up to 30 years. The department shall review each variance granted pursuant to this section at least every five years. The variance may be withdrawn upon reasonable notice by the department if the department determines that the community served by the district no longer accepts the fluoride level authorized in the variance or the level of fluoride authorized by the variance poses an unreasonable risk to health. In no case may a variance be granted in excess of the United States Environmental Protection Agency maximum contaminant level.

(2) The department shall grant a variance pursuant to paragraph (1) only if it determines, after conducting a public hearing in the community served by the district, that there is no substantial community opposition to the variance and the variance does not pose an unreasonable risk to health. The district shall provide written notification, approved by the department, to all customers which shall contain at least the following information:

(A) The fact that a variance has been requested.

(B) The date, time and location of the public hearing that will be conducted by the department.

(C) The level of fluoride that will be allowed by the requested variance and how this level compares to the maximum contaminant levels prescribed by the state primary drinking water standard, the federal national primary drinking water regulation, and the federal national secondary drinking water regulation.

(D) A discussion of the types of health and dental problems that may occur when the fluoride concentration exceeds the maximum contaminant levels prescribed by the state standard and the federal regulations.

(3) If, at any time after a variance has been granted pursuant to paragraph (1), substantial community concerns arise concerning the level of fluoride present in the water supplied by the district, the district shall notify the department, conduct a public hearing on the concerns expressed by the community, determine the fluoride level that is acceptable to the community, and apply to the department for an amendment to the variance which reflects that determination.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that certain public water systems have the flexibility necessary to continue to ensure water service when fluoride levels in their water supplies are not in compliance with state standards but are consistent with federal regulations, it is necessary that this bill take effect immediately.

CHAPTER 1071

An act to add Sections 3710.3 and 3716.4 to the Labor Code, and to add Sections 324, 1031.5, 1033.8, 1061.5, 1070.6, 3553.1, 3774.6, 5135.6, 5285.5, 5373.5, and 5378.7 to the Public Utilities Code, relating to common carriers, and making an appropriation therefor.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 3710.3 is added to the Labor Code, to read:

3710.3. Whenever a stop order has been issued pursuant to Section 3701.1 to a highway common carrier, highway permit carrier, cement carrier, household goods carrier, passenger stage corporation, or charter-party carrier of passengers subject to the jurisdiction and control of the Public Utilities Commission, the director shall transmit the stop order to the Public Utilities Commission within 30 days.

SEC. 2. Section 3716.4 is added to the Labor Code, to read:

3716.4. Whenever a final judgment has been entered against a highway common carrier, highway permit carrier, cement carrier, passenger state corporation, charter-party carrier of passengers, or household goods carrier subject to the jurisdiction and control of the Public Utilities Commission as a result of an award having been made pursuant to Section 3716.2, the director may transmit to the Public Utilities Commission a copy of the judgment along with the name and address of the regulated entity and any other persons, corporations, or entities named in the judgment which are jointly and severally liable for the debt to the State Treasury with a complaint requesting that the Public Utilities Commission immediately revoke the carrier's certificate of public convenience and necessity or permit.

SEC. 3. Section 324 is added to the Public Utilities Code, to read:

324. The executive director of the commission may release to the Director of Industrial Relations any information concerning any person, corporation, or other entity under the jurisdiction and control of the commission relevant to the enforcement of the workers' compensation laws of this state.

SEC. 3.5. Section 1031.5 is added to the Public Utilities Code, to read:

1031.5. The commission shall not issue or authorize the transfer of any certificate under this article to any person, firm, or corporation or to any officer or director of the firm, corporation, or other entity against whom a final judgment has been entered and whose name has been transmitted to the commission pursuant to Section 3716.4 of the Labor Code, unless that judgment has been satisfied or has been discharged in accordance with the bankruptcy laws of the United States.

SEC. 4. Section 1033.8 is added to the Public Utilities Code, to read:

1033.8. (a) Upon receipt of a stop order issued by the Director of Industrial Relations pursuant to Section 3710.1 of the Labor Code, the commission shall investigate to determine whether the passenger stage corporation has filed a false statement relative to workers' compensation insurance coverage, in violation of statute, or rules or orders of the commission. If, after notice and opportunity to be heard, the commission determines that there has been a violation of statute, or rules or orders of the commission, the commission shall impose appropriate penalties, which may include a fine and suspension of operating authority for a violation.

(b) Upon receipt of a complaint from the Director of Industrial Relations that a final judgment has been entered against any passenger stage corporation as a result of an award having been made to an employee pursuant to Section 3716.2 of the Labor Code, the commission shall, 30 days from the date notice to the corporation is mailed, revoke the corporation's certificate of public convenience and necessity, unless the judgment has been satisfied or has been discharged in accordance with the bankruptcy laws of the United States or the corporation requests a hearing pursuant to subdivision (c).

(c) Within seven days of receipt of a complaint from the Director of Industrial Relations that a final judgment has been entered against any passenger stage corporation as a result of an award having been made to an employee pursuant to Section 3716.2 of the Labor Code, the commission shall furnish to the corporation named in the final judgment written notice of the right to a hearing regarding the complaint and the procedure to follow to request a hearing. The notice shall state that the commission is required to revoke the corporation's certificate of public convenience and necessity to operate pursuant to subdivision (b) after 30 days from the date the notice is mailed unless the corporation provides proof that the judgment is satisfied or has been discharged in accordance with the bankruptcy laws of the United States and the commission has been so notified seven days prior to the conclusion of the 30-day waiting period. The notice shall also inform the corporation of a right to a hearing and the procedures to follow to request a hearing. The corporation may request a hearing within 10 days from the date the notice is sent by the commission. The request for the hearing shall stay the revocation. The hearing shall be held within 30 days of the

receipt of the request. If the commission finds that an unsatisfied judgment exists concerning a debt arising under Section 3717 of the Labor Code, the commission shall immediately revoke the corporation's certificate of public convenience and necessity.

SEC. 5. Section 1061.5 is added to the Public Utilities Code, to read:

1061.5. The commission shall not issue or authorize the transfer of any certificate under this article to any person or corporation against whom a final judgment has been entered and whose name has been transmitted to the commission pursuant to Section 3716.4 of the Labor Code, unless that judgment has been satisfied or has been discharged in accordance with the bankruptcy laws of the United States.

SEC. 6. Section 1070.6 is added to the Public Utilities Code, to read:

1070.6. (a) Upon receipt of a stop order issued by the Director of Industrial Relations pursuant to Section 3710.1 of the Labor Code, the commission shall investigate to determine whether the highway common carrier or cement carrier has filed a false statement relative to workers' compensation insurance coverage, in violation of statute, or rules or orders of the commission. If, after notice and opportunity to be heard, the commission determines that there has been a violation of statute, or rules or orders of the commission, the commission shall impose appropriate penalties, which may include a fine and suspension of operating authority for a violation.

(b) Upon receipt of a complaint from the Director of Industrial Relations that a final judgment has been entered against any highway common carrier or cement carrier as a result of an award having been made to an employee pursuant to Section 3716.2 of the Labor Code, the commission shall, 30 days from the date notice to the carrier is mailed, revoke the carrier's certificate of public convenience and necessity, unless the judgment has been satisfied or has been discharged in accordance with the bankruptcy laws of the United States or the carrier requests a hearing pursuant to subdivision (c).

(c) Within seven days of receipt of a complaint from the Director of Industrial Relations that a final judgment has been entered against any highway common carrier or cement carrier as a result of an award having been made to an employee pursuant to Section 3716.2 of the Labor Code, the commission shall furnish to the corporation named in the final judgment written notice of the right to a hearing regarding the complaint and the procedure to follow to request a hearing. The notice shall state that the commission is required to revoke the carrier's certificate of public convenience and necessity to operate pursuant to subdivision (b) after 30 days from the date the notice is mailed unless the corporation provides proof that the judgment is satisfied or has been discharged in accordance with the bankruptcy laws of the United States and the commission has been so notified seven days prior to the conclusion of the 30-day waiting

period. The notice shall also inform the carrier of a right to a hearing and the procedures to follow to request a hearing. The carrier may request a hearing within 10 days from the date the notice is sent by the commission. The request for the hearing shall stay the revocation. The hearing shall be held within 30 days of the receipt of the request. If the commission finds that an unsatisfied judgment exists concerning a debt arising under Section 3717 of the Labor Code, the commission shall immediately revoke the carrier's certificate of public convenience and necessity.

SEC. 7. Section 3553.1 is added to the Public Utilities Code, to read:

3553.1. The commission shall not issue or authorize the transfer of any permit under this chapter to any person or corporation against whom a final judgment has been entered and whose name has been transmitted to the commission pursuant to Section 3716.4 of the Labor Code, unless that judgment has been satisfied or has been discharged in accordance with the bankruptcy laws of the United States.

SEC. 8. Section 3774.6 is added to the Public Utilities Code, to read:

3774.6. (a) Upon receipt of a stop order issued by the Director of Industrial Relations pursuant to Section 3710.1 of the Labor Code, the commission shall investigate to determine whether the highway permit carrier has filed a false statement relative to workers' compensation insurance coverage, in violation of statute, or rules or orders of the commission. If, after notice and opportunity to be heard, the commission determines that there has been a violation of statute, or rules or orders of the commission, the commission shall impose appropriate penalties, which may include a fine and suspension of operating authority for a violation.

(b) Upon receipt of a complaint from the Director of Industrial Relations that a final judgment has been entered against any highway permit carrier as a result of an award having been made to an employee pursuant to Section 3616.2 of the Labor Code, the commission shall, 30 days from the date the carrier is mailed the notice, revoke the carrier's permit unless the judgment has been satisfied or has been discharged in accordance with the bankruptcy laws of the United States or the carrier requests a hearing pursuant to subdivision (c).

(c) Within seven days of receipt of a complaint from the Director of Industrial Relations that a final judgment has been entered against any highway permit carrier as a result of an award having been made to an employee pursuant to Section 3716.2 of the Labor Code, the commission shall furnish to the carrier named in the final judgment written notice of the right to a hearing regarding the complaint and the procedure to follow to request a hearing. The notice shall state that the commission is required to revoke the carrier's permit to operate pursuant to subdivision (b) after 30 days from the date the notice is mailed unless the carrier provides proof that the judgment

is satisfied or has been discharged in accordance with the bankruptcy laws of the United States and the commission has been so notified seven days prior to the conclusion of the 30-day waiting period. The notice shall also inform the carrier of a right to a hearing and the procedures to follow to request a hearing. The carrier may request a hearing within 10 days from the date the notice is sent by the commission. The request for the hearing shall stay the revocation. The hearing shall be held within 30 days of the receipt of the request. If the commission finds that an unsatisfied judgment exists concerning a debt arising under Section 3717 of the Labor Code, the commission shall immediately revoke the carrier's permit.

SEC. 9. Section 5135.6 is added to the Public Utilities Code, to read:

5135.6. The commission shall not issue or authorize the transfer of any permit under this chapter to any person or corporation against whom a final judgment has been entered and whose name has been transmitted to the commission pursuant to Section 3716.4 of the Labor Code, unless that judgment has been satisfied or has been discharged in accordance with the bankruptcy laws of the United States.

SEC. 10. Section 5285.5 is added to the Public Utilities Code, to read:

5285.5. (a) Upon receipt of a stop order issued by the Director of Industrial Relations pursuant to Section 3710.1 of the Labor Code, the commission shall investigate to determine whether the household goods carrier has filed a false statement relative to workers' compensation insurance coverage, in violation of statute, or rules or orders of the commission. If, after notice and opportunity to be heard, the commission determines that there has been a violation of statute, or rules or orders of the commission, the commission shall impose appropriate penalties, which may include a fine and suspension of operating authority for a violation.

(b) Upon receipt of a complaint from the Director of Industrial Relations that a final judgment has been entered against any household goods carrier as a result of an award having been made to an employee pursuant to Section 3616.2 of the Labor Code, the commission shall, 30 days from the date the carrier is mailed the notice, revoke the carrier's permit unless the judgment has been satisfied or has been discharged in accordance with the bankruptcy laws of the United States or the carrier requests a hearing pursuant to subdivision (c).

(c) Within seven days of receipt of a complaint from the Director of Industrial Relations that a final judgment has been entered against any household goods carrier as a result of an award having been made to an employee pursuant to Section 3716.2 of the Labor Code, the commission shall furnish the carrier named in the final judgment written notice of the right to a hearing regarding the complaint and the procedure to follow to request a hearing. The notice shall state that the commission is required to revoke the carrier's permit to

operate pursuant to subdivision (b) after 30 days from the date the notice is mailed unless the carrier provides proof that the judgment is satisfied or has been discharged in accordance with the bankruptcy laws of the United States and the commission has been so notified seven days prior to the conclusion of the 30-day waiting period. The notice shall also inform the carrier of a right to a hearing and the procedures to follow to request a hearing. The carrier may request a hearing within 10 days from the date the notice is sent by the commission. The request for the hearing shall stay the revocation. The hearing shall be held within 30 days of the receipt of the request. If the commission finds that an unsatisfied judgment exists concerning a debt arising under Section 3717 of the Labor Code, the commission shall immediately revoke the carrier's permit.

SEC. 11. Section 5373.5 is added to the Public Utilities Code, to read:

5373.5. The commission shall not issue or authorize the transfer of any certificate or permit under this chapter to any person or corporation against whom a final judgment has been entered and whose name has been transmitted to the commission pursuant to Section 3716.4 of the Labor Code, unless that judgment has been satisfied or has been discharged in accordance with the bankruptcy laws of the United States.

SEC. 12. Section 5378.7 is added to the Public Utilities Code, to read:

5378.7. (a) Upon receipt of a stop order issued by the Director of Industrial Relations pursuant to Section 3710.1 of the Labor Code, the commission shall investigate to determine whether the charter-party carrier of passengers has filed a false statement relative to workers' compensation insurance coverage, in violation of statute, or rules or orders of the commission. If, after notice and opportunity to be heard, the commission determines that there has been a violation of statute, or rules or orders of the commission, the commission shall impose appropriate penalties, which may include a fine and suspension of operating authority for a violation.

(b) Upon receipt of a complaint from the Director of Industrial Relations, that a final judgment has been entered against any charter-party carrier of passengers as a result of an award having been made to an employee pursuant to Section 3716.2 of the Labor Code, the commission shall, 30 days from the date the carrier is mailed the notice, revoke the carrier's permit unless the judgment has been satisfied or has been discharged in accordance with the bankruptcy laws of the United States or the carrier requests a hearing pursuant to subdivision (c).

(c) Within seven days of receipt of a complaint from the Director of Industrial Relations that a final judgment has been entered against any charter-party carrier of passengers as a result of an award having been made to an employee pursuant to Section 3716.2 of the Labor Code, the commission shall furnish the carrier named in the final judgment written notice of the right to a hearing regarding the

complaint and the procedure to follow to request a hearing. The notice shall state that the commission must revoke the carrier's permit to operate pursuant to subdivision (b) after 30 days from the date the notice is mailed unless the carrier provides proof that the judgment is satisfied or has been discharged in accordance with the bankruptcy laws of the United States and the commission has been so notified seven days prior to the conclusion of the 30-day waiting period. The notice shall also inform the carrier of a right to a hearing and the procedures to follow to request a hearing. The carrier shall have 10 days from the date the notice is sent by the commission to request a hearing. The request for the hearing shall stay the revocation. The hearing shall be held within 30 days of the receipt of the request. If the commission finds that an unsatisfied judgment exists concerning a debt arising under Section 3717 of the Labor Code, the commission shall immediately revoke the carrier's permit.

SEC. 13. The sum of ninety thousand dollars ($90,000) is hereby appropriated from the following sources to the Public Utilities Commission for those costs incurred in carrying out the purposes of this act:

(a) The sum of seventy-five thousand dollars ($75,000) from the Transportation Rate Fund created by Section 5005 of the Public Utilities Code.

(b) The sum of fifteen thousand dollars ($15,000) from the Public Utilities Commission Transportation Reimbursement Account.

CHAPTER 1072

An act to amend Sections 18400.1, 18420, 18421, and 18502 of, and to amend the heading of Chapter 3.5 (commencing with Section 18420) of Part 2.1 of Division 13 of, the Health and Safety Code, relating to mobilehome parks, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 14, 1991 Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 18400.1 of the Health and Safety Code is amended to read:

18400.1. (a) The enforcement agency shall enter and inspect all mobilehome parks, as required under this part, at least once every five years, to ensure enforcement of this part and the regulations adopted pursuant to this part. Any notices of violation of this part shall be issued pursuant to Chapter 3.5 (commencing with Section 18420).

(b) In developing its program for inspections, the enforcement agency shall give first priority to inspections of those mobilehome

parks which it believes may have the most serious violations of this part.

(c) Nothing in this part shall be construed to allow the enforcement agency to issue a notice for a violation of existing laws or regulations which were not violations of the laws or regulations at the time the mobilehome park received its original permit to operate or at the time the manufactured home or mobilehome received its original installation permit, unless the enforcement agency determines that a condition of the park, manufactured home, or mobilehome endangers the life, limb, health, or safety of the public or occupants thereof.

(d) This section shall remain in effect only until January 1, 1997, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1997, deletes or extends that date.

SEC. 2. The heading of Chapter 3.5 (commencing with Section 18420) of Part 2.1 of Division 13 of the Health and Safety Code is amended to read:

CHAPTER 3.5. NOTICE OF VIOLATIONS

SEC. 3. Section 18420 of the Health and Safety Code is amended to read:

18420. (a) (1) If, upon inspection, the enforcement agency determines that a mobilehome park is in violation of any provision of this part, or any rule or regulation adopted pursuant thereto, the enforcement agency shall promptly, but not later than 10 days, excluding Saturday, Sunday, and holidays, after the enforcement agency completes the inspection and determines that the alleged violation exists, issue a notice to correct the violation to the owner or operator of the mobilehome park and to the responsible person, as defined in Section 18603.

(2) In the event of a violation that constitutes an imminent threat to health and safety, the notice of violation shall be issued immediately and served on the owner or operator of the mobilehome park and to the responsible person, as defined in Section 18603.

(3) The owner or operator of the mobilehome park shall be responsible for the correction of any violations for which a notice of violation has been given pursuant to this subdivision.

(b) (1) If, upon inspection, the enforcement agency determines that a manufactured home, mobilehome, an accessory building or structure, or lot is in violation of any provision of Chapter 4 (commencing with Section 18500), Chapter 5 (commencing with Section 18601), Chapter 6 (commencing with Section 18690), or any rule or regulation adopted pursuant thereto, the enforcement agency shall promptly, but not later than 10 days, excluding Saturday, Sunday, and holidays, after the enforcement agency completes the inspection and determines that the alleged violation exists, issue a notice to correct the violation to the registered owner of the

manufactured home or mobilehome, with a copy to the occupant thereof, if different from the registered owner, and the owner or operator of the mobilehome park and to the responsible person, as defined in Section 18603.

(2) In the event of a violation that constitutes an imminent threat to health and safety, the notice of violation shall be issued immediately and served upon the occupant, with a copy mailed to the registered owner of the manufactured home or mobilehome, if different from the occupant, and the owner or operator of the mobilehome park and to the responsible person, as defined in Section 18603.

(3) The registered owner of the manufactured home or mobilehome shall be responsible for the correction of any violations for which a notice of violation has been given pursuant to this subdivision.

(4) The enforcement agency may issue a notice of violation in accordance with this chapter to the owner of a recreational vehicle, or of factory-built housing, which occupies a lot within a mobilehome park.

(c) Service of the notice of violation shall be effected either personally or by first-class mail. Each notice of violation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the statutory provisions or regulation alleged to have been violated, as well as any penalty provided by law for failure to make timely correction. The notice of violation shall fix the earliest feasible time, as determined by the enforcement agency, for the elimination of the condition constituting the alleged violation.

(d) Notwithstanding any other provision of law, the enforcement agency may, at its sole discretion, determine not to issue a notice of violation pursuant to this chapter if the condition which violates this part or the regulations adopted pursuant thereto does not constitute a danger to life, limb, health, or safety. If the enforcement agency determines, pursuant to this subdivision, not to issue a notice of violation, the enforcement agency shall include in its inspection report a description of the condition which violates this part and its determination not to issue a notice of violation.

SEC. 4. Section 18421 of the Health and Safety Code is amended to read:

18421. If the owner or operator of the mobilehome park or the registered owner of the manufactured home or mobilehome disputes a determination by the enforcement agency regarding the alleged violation, the alleged failure to correct the violation in the required timeframe, or the reasonableness of the deadline for correction specified by the notice of violation, the owner or operator of the mobilehome park or the registered owner of the manufactured home or mobilehome may request an informal conference with the enforcement agency. The informal conference, and any subsequent hearings, or appeals of the decision of the enforcement agency, shall

be conducted in accordance with procedures prescribed by the department.

SEC. 5. Section 18502 of the Health and Safety Code, as amended by Section 5 of Chapter 1175 of the Statutes of 1990, is amended to read:

18502. Fees as applicable shall be submitted for permits:

(a) Fees for a permit to conduct any construction subject to this part as determined by the schedule of fees adopted by the department.

(b) Plan checking fees equal to one-half of the construction, plumbing, mechanical, and electrical permit fees, except that the minimum fee shall be ten dollars ($10).

(c) Except for a temporary recreational vehicle park, an annual operating permit fee of twenty-five dollars ($25) and an additional two dollars ($2) per lot or two dollars ($2) per camping party for the maximum number of camping parties to be accommodated at any one time in an incidental camping area.

(d) Temporary recreational vehicle park operating permit fee of twenty-five dollars ($25), with no additional fee for the lots.

(e) Change in name fee or transfer of ownership or possession fee of ten dollars ($10).

(f) Duplicate permit fee or amended permit fee of ten dollars ($10).

(g) This section shall become operative on January 1, 1997.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

Moreover, no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

For the proper and efficient implementation of the mobilehome inspection program enacted by Chapter 1175 of the Statutes of 1990, it is necessary that this act take effect immediately.

CHAPTER 1073

An act to amend Sections 25149.5 and 25173.5 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 25149.5 of the Health and Safety Code is amended to read:

25149.5. (a) A general law city or county may impose and enforce, for revenue purposes, a license tax on the operation of an existing hazardous waste facility; provided that, the license tax imposed shall not exceed 10 percent of the annual gross receipts of the existing hazardous waste disposal facility.

(b) A state agency shall not include the expenditure of revenues received by a city or county pursuant to this section in calculating the level of financial support that a city or county is required to maintain under any other provision of law, including, but not limited to, Section 77204 of the Government Code and Section 16990 of the Welfare and Institutions Code. However, this subdivision does not apply to subdivision (c) of Section 2105 of the Streets and Highways Code.

SEC. 2. Section 25173.5 of the Health and Safety Code is amended to read:

25173.5. (a) Except as provided in subdivision (b), the legislative body of a city or county may impose and enforce a tax, for general purposes, or may impose a user fee on the operation of an offsite, multiuser hazardous waste facility located within the jurisdiction of the city or county. The tax or the user fee imposed shall not exceed 10 percent of the facility's annual gross receipts for the treatment, storage, or disposal of hazardous waste at the facility.

If a city or county imposes a tax pursuant to this section, the city or county may use the revenues collected from the tax to fund those activities reasonably necessary for the city or county to carry out its duties related to the operation of the hazardous waste facility upon which the tax is imposed and for support of the city's or county's fire and emergency response capabilities and emergency medical services, to the extent the city or county determines that this funding should be given priority.

(b) A city or county shall not impose a tax or a user fee adopted pursuant to subdivision (a) upon any of the following:

(1) An existing hazardous waste facility for which a tax is authorized pursuant to Section 25149.5.

(2) That portion of the gross receipts of the hazardous waste facility that derives from the recycling of hazardous wastes or the treatment of medical wastes or wastes which meets the definition of

medical wastes.

(c) A state agency shall not include the expenditure of revenues received by a city or county pursuant to this section in calculating the level of financial support that a city or county is required to maintain under any other provision of law, including, but not limited to, Section 77204 of the Government Code and Section 16990 of the Welfare and Institutions Code. However, this subdivision does not apply to subdivision (c) of Section 2105 of the Streets and Highways Code.

CHAPTER 1074

An act to add Section 13508 to the Penal Code, relating to law enforcement.

[Approved by Governor October 14, 1991 Filed with Secretary of State October 14, 1991]

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

SECTION 1. The Legislature acknowledges the study by a committee specially convened and constituted by the Legislature to investigate the need for modern technology and facilities for law enforcement training pursuant to Resolution Chapter 166 of the Statutes of 1989. The study made each of the following conclusions:

(a) The skills, knowledge, and attitudes acquired by law enforcement officers through training has a profound impact upon the quality of living in California.

(b) The training of California's law enforcement officers suffers from lack of availability of modern instructional technology and specialized training facilities.

(c) The training of law enforcement officers could be greatly enhanced through technology and adequate facilities.

The Legislature finds and declares that it is essential that the training of California's law enforcement officers be afforded greater use of modern instructional technology and specialized training facilities.

SEC. 2. Section 13508 is added to the Penal Code, to read:

13508. (a) The commission shall do each of the following:

(1) Establish a learning technology laboratory that would conduct pilot projects with regard to needed facilities and otherwise implement modern instructional technology to improve the effectiveness of law enforcement training.

(2) Develop an implementation plan for the acquisition of law enforcement facilities and technology. In developing this plan, the commission shall consult with appropriate law enforcement and training organizations. The implementation plan shall include each of the following items:

(A) An evaluation of pilot and demonstration projects.

(B) Recommendations for the establishment of regional skills training centers, training conference centers, and the use of modern instructional technology.

(C) A recommended financing structure.

(3) Report to the Legislature on or before January 1, 1995, as to the status and effectiveness of the pilot projects implemented under this section.

(b) The commission may enter into joint powers agreements with other governmental agencies for the purpose of developing and deploying needed technology and facilities.

(c) Any pilot project conducted pursuant to this section shall terminate on or before January 1, 1995 unless funding is provided for the project continuation.

SEC. 3. This act shall only become operative upon the appropriation of funds for the purposes of this act by the Legislature in the Budget Act of 1992.

CHAPTER 1075

An act to amend Sections 443.21 and 443.26 of, and to add Sections 443.321, 443.322, and 443.323 to, the Health and Safety Code, relating to health facility reporting, and making an appropriation therefor.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) The State of California collects a variety of financial, utilization and patient care data for use in analyzing, planning, providing, and purchasing hospital-based health care services.

(2) In order to study the effectiveness of health care services provided in hospitals, and to study the hospital's ability to prevent death, minimize disability, control complications, and improve health status, all of the following is required:

(A) Refinement of some of the data elements now available.

(B) Study of whether collection of additional data elements is needed to increase the scope and usefulness of outcomes studies.

(C) Development of cost-effective analytical methodologies using this data.

(3) Central to the development of these methodologies is data that permits "adjustment" for patient risk factors which cannot be controlled by providers of care, thereby permitting identification of factors associated with efforts to improve the effectiveness of care.

(4) Of the two principal sources of patient risk data, the clinical

record and the discharge abstract, the discharge abstract which contains selected items abstracted from the clinical record is now required to be reported to the Office of Statewide Health Planning and Development by all hospitals for all inpatients. Items selected from the clinical record and reported to the state may be used for selected conditions for performing "risk adjusted measurement of outcomes" (RAMO).

(5) RAMO has routinely been applied for the past 10 years to perinatal outcomes in California and can be applied to pediatric and adult outcomes for selected medical and surgical procedures of importance to both payers and patients.

(6) A subset of RAMO which adjusts for patient risk by severity of sickness scores has also been developed and is available from private vendors using either the clinical record or the discharge abstract.

(7) Recent comparative analyses of severity adjustment methodologies demonstrate that the different systems have merit for particular purposes, but no system can be classed as sufficiently superior for meeting the spectrum of uses of hospitals, regulating agencies, and payers that would justify a state mandate with high potential costs to hospitals.

(8) Purchasers of health care services as well as hospitals have a significant interest in methods that provide risk-adjusted outcomes for the patients who are their responsibility and as a consequence both parties at interest need an initiative in this area.

(b) Therefore, it is the intent of the Legislature to do all of the following:

(1) Promote and conduct risk-adjusted outcome studies.

(2) Strengthen the existing state data collection effort and data base, by deliberate and incremental additions or changes to, and expansion of, the abstract record required by current law.

(3) Create an ongoing technical advisory capability to provide guidance to the state on advancement and refinement of outcome measures and studies, and the data required to conduct the studies which are feasible to conduct, valuable to consumers, providers and purchasers, and economical to produce.

SEC. 2. Section 443.21 of the Health and Safety Code is amended to read:

443.21. As used in this part, the following terms mean:

(a) "Commission" means the California Health Policy and Data Advisory Commission.

(b) "Health facility" or "health facilities" means all health facilities required to be licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2.

(c) "Hospital" means all health facilities except skilled nursing, intermediate care, and congregate living health facilities.

(d) "Office" means the Office of Statewide Health Planning and Development.

(e) "Risk-adjusted outcomes" means the clinical outcomes of

patients grouped by diagnoses or procedures which have been adjusted for demographic and clinical factors.

SEC. 3. Section 443.26 of the Health and Safety Code is amended to read:

443.26. The functions and duties of the commission shall include the following:

(a) Advise the office on the implementation of the new, consolidated data system.

(b) Advise the office regarding the ongoing need to collect and report health facility data and other provider data.

(c) Annually develop a report to the director of the office regarding changes that should be made to existing data collection systems and forms. Copies of the report shall be provided to the Senate Health and Human Services Committee and to the Assembly Health Committee.

(d) Advise the office regarding changes to the uniform accounting and reporting systems for health facilities.

(e) Conduct public meetings for the purposes of obtaining input from health facilities, other providers, data users, and the general public regarding this part and Part 1.5 (commencing with Section 437.01).

(f) Advise the Secretary of Health and Welfare on the formulation of general policies which shall advance the purposes of this part.

(g) Advise the office on the adoption, amendment, or repeal of regulations it proposes prior to their submittal to the Office of Administrative Law.

(h) Advise the office on the format of individual health facility or other provider data reports and on any technical and procedural issues necessary to implement this part.

(i) Advise the office on the formulation of general policies which shall advance the purposes of Part 1.5 (commencing with Section 437.01).

(j) Recommend, in consultation with a 12-member technical advisory committee appointed by the chairperson of the commission, to the office the data elements necessary for the production of outcome reports required by Section 443.321.

(k) The technical advisory committee appointed pursuant to subdivision (j) shall be composed of two members who shall be hospital representatives appointed from a list of at least six persons nominated by the California Association of Hospitals and Health Systems, two members who shall be physicians and surgeons appointed from a list of at least six persons nominated by the California Medical Association, two members who shall be registered nurses appointed from a list of at least six persons nominated by the California Nurses Association, one medical record practitioner who shall be appointed from a list of at least six persons nominated by the California Health Information Association, one member who shall be a representative of a hospital authorized to report as a group pursuant to subdivision (d) of Section 443.34, two members who shall

be representative of California research organizations experienced in effectiveness review of medical procedures or surgical procedures, or both procedures, one member representing the Health Access Foundation, and one member representing the Consumers Union. Members of the technical advisory committee shall serve without compensation, but shall be reimbursed for any actual and necessary expenses incurred in connection with their duties as members of the technical advisory committee.

The commission shall submit its recommendation to the office regarding the first of the reports required pursuant to subdivision (a) of Section 443.321 no later than January 1, 1993. The technical advisory committee shall submit its initial recommendations to the commission pursuant to subdivision (d) of Section 443.322 no later than January 1, 1994. The commission, with the advice of the technical advisory committee, may periodically make additional recommendations under Sections 443.321 and 443.332 to the office, as appropriate.

(*l*) As the office and the commission deem necessary, the commission may establish committees and appoint persons who are not members of the commission to these committees as are necessary to carry out the purposes of the commission. Representatives of area health planning agencies shall be invited, as appropriate, to serve on committees established by the office and the commission relative to the duties and responsibilities of area health planning agencies. Members of the standing committees shall serve without compensation, but shall be reimbursed for any actual and necessary expenses incurred in connection with their duties as members of these committees.

Whenever the office or the commission does not accept the advice of the other body on proposed regulations or on major policy issues, the office or the commission shall provide a written response on its action to the other body within 30 days, if so requested.

The commission or the office director may appeal to the Secretary of Health and Welfare over disagreements on policy, procedural, or technical issues.

SEC. 4. Section 443.321 is added to the Health and Safety Code, immediately following Section 443.32, to read:

443.321. (a) Commencing July 1993, and annually thereafter, the office shall publish risk-adjusted outcome reports in accordance with the following schedule:

Publication Date	Period Covered	Procedures and Conditions Covered
July 1993	1988–90	3
July 1994	1989–91	6
July 1995	1990–92	9

Reports for subsequent years shall include conditions and

procedures and cover periods as appropriate.

(b) The procedures and conditions to be reported shall be divided equally among medical, surgical and obstetric conditions or procedures and shall be selected by the office, based on the recommendations of the commission and the advice of the technical advisory committee set forth in subdivision (j) of Section 443.26. The selections shall be in accordance with all of the following criteria:

(1) The patient discharge abstract contains sufficient data to undertake a valid risk adjustment.

(2) The relative importance of the procedure and condition in terms of the cost of cases and the number of cases.

(3) Ability to measure outcome and the likelihood that care influences outcome.

(4) Reliability of the diagnostic and procedure data.

(c) The annual reports shall compare the risk-adjusted outcomes experienced by all patients treated for the selected conditions and procedures in each California hospital during the period covered by each report, to the outcomes expected. Outcomes shall be reported in the five following groupings:

(1) "Much higher than average outcomes," for hospitals with risk-adjusted outcomes much higher than the norm.

(2) "Higher than average outcomes," for hospitals with risk-adjusted outcomes higher than the norm.

(3) "Average outcomes," for hospitals with average risk-adjusted outcomes.

(4) "Lower than average outcomes," for hospitals with risk-adjusted outcomes lower than the norm.

(5) "Much lower than average outcomes," for hospitals with risk-adjusted outcomes much lower than the norm.

SEC. 5. Section 443.322 is added to the Health and Safety Code, immediately following Section 443.321, to read:

443.322. (a) Prior to the public release of the annual outcome reports the office shall furnish a preliminary report to each hospital that is included in the report. The office shall allow the hospital and chief of staff 60 days in which to review the outcome scores and compare the scores to other California hospitals. A hospital or its chief of staff that believes that the risk-adjusted outcomes do not accurately reflect the quality of care provided by the hospital may submit a statement to the office, within the 60 days, explaining why the outcomes do not accurately reflect the quality of care provided by the hospital. The statement shall be included in an appendix to the public report, and a notation that the hospital or its chief of staff has submitted a statement shall be displayed wherever the report presents outcome scores for the hospital.

(b) The office shall, in addition to public reports, provide hospitals and the chiefs of staff of the medical staffs with a report containing additional detailed information derived from data summarized in the public outcome reports as an aid to internal quality assurance.

(c) If, pursuant to the recommendations of the office, based on

the advice of the commission, in response to the recommendations of the technical advisory committee made pursuant to subdivision (d) of this section, the Legislature subsequently amends Section 443.31 to authorize the collection of additional discharge data elements, then the outcome reports for conditions and procedures for which sufficient data is not available from the current abstract record will be produced following the collection and analysis of the additional data elements.

(d) The recommendations of the technical advisory committee for the addition of data elements to the discharge abstract should take into consideration the technical feasibility of developing reliable risk-adjustment factors for additional procedures and conditions as determined by the technical advisory committee with the advice of the research community, physicians and surgeons, hospitals, and medical records personnel.

(e) The technical advisory committee at a minimum shall identify a limited set of core clinical data elements to be collected for all of the added procedures and conditions and unique clinical variables necessary for risk adjustment of specific conditions and procedures selected for the outcomes report program. In addition, the committee should give careful consideration to the costs associated with the additional data collection and the value of the specific information to be collected.

(f) The technical advisory committee shall also engage in a continuing process of data development and refinement applicable to both current and prospective outcome studies.

SEC. 6. Section 443.323 is added to the Health and Safety Code, immediately following Section 443.322, to read:

443.323. (a) To increase the scope and usefulness of outcome studies the office shall report to the Legislature its recommendations, if any, for the outcome reports described in subdivision (c) of Section 443.322, and for undertaking the following projects:

(1) Linkage of the patient discharge abstract record containing a patient unique identifier to state death registers and hospital readmission records to permit review of 30, 60, 90, and 180 day postadmission status for the purpose of analyzing deaths or readmission shortly after discharge.

(2) Identification of patient condition upon admission and subsequent onset during hospital stay by requiring a notation identifying secondary diagnoses present at admission.

(3) Expansion of abstract record collection for episodes of significant surgical care taking place in ambulatory settings, including, but not limited to, hospital outpatient departments, emergency rooms, surgical services, freestanding surgery centers, and diagnostic facilities.

(4) Addition of the admitting physician and surgeon's and principal physician and surgeon's name or license number to the discharge abstract.

(b) The recommendations developed by the office pursuant to

this section shall include, when appropriate, a cost estimate and revenue source, and shall be reported to the Legislature on an annual basis commencing with the initial report due July 1, 1992.

SEC. 7. There is hereby appropriated the sum of six hundred seventy thousand dollars ($670,000) from the California Health Data and Planning Fund to the Office of Statewide Health Planning and Development to cover the reasonable costs of performing the duties required by subdivisions (j) and (k) of Section 443.26 of, Sections 443.321 and 443.322 of, and subdivision (a) of Section 443.323 of, the Health and Safety Code.

CHAPTER 1076

An act relating to education.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. There is hereby created in the Santa Cruz High School attendance area a program for middle school options to eliminate revenue limit inequities in the per pupil funding for instructional programs for pupils in grades 7 and 8. Participation is limited to the Scotts Valley Union Elementary School District and the Soquel Union Elementary School District. The purpose of the program is to encourage and enable these elementary school districts in this attendance area to continue providing a middle school program, in addition to the junior high school program operated by the high school district, thereby increasing enrollment options for all pupils in grades 7 and 8.

SEC. 2. (a) In order for these elementary school districts to receive an addition to the revenue limit pursuant to this act, these districts shall do all of the following:

(1) Continue to participate in a consortium with the Santa Cruz High School District.

(2) At a minimum, all pupils in grades 7 and 8 in the participating districts shall be provided with the option to enroll in either a middle school operated by the elementary school districts or a junior high school operated by the high school district.

(3) Provide evidence to the Superindendent of Public Instruction that the amount computed and allocated pursuant to Section 6 will be used only for pupils in grades 7 and 8.

(b) Participation by the districts in the consortium shall be voluntary.

SEC. 3. For purposes of this act, the following definitions shall apply:

(a) "Middle school program" means a program in which teachers

teach a common core curriculum to the same group of pupils in grades 6, 7, and 8 and provide a transition from self-contained classroom education at the elementary level to subject-oriented, departmentalized classrooms of the high school level.

(b) "Junior high school program" means a departmentalized program in which pupils in grades 7, 8, and 9 select classes based on subject and move from classroom to classroom during the school day.

SEC. 4. A district shall not deny a request for enrollment made pursuant to this chapter unless no space is available in the selected school or unless the choice would have a negative impact on an existing desegregation plan.

SEC. 5. The average daily attendance of pupils participating in the enrollment option pursuant to this act and attending the elementary school districts shall be credited to the elementary school district of residence for purposes of determining state apportionments and revenue limits. The average daily attendance of pupils attending the high school district shall be credited to the Santa Cruz High School District.

SEC. 6. For the 1991–92 fiscal year and each fiscal year thereafter, the Superintendent of Public Instruction shall compute and allocate an amount in addition to the revenue limit for each elementary school district participating in the consortium, equal to the following:

(a) Calculate the average of the base revenue limits per unit of average daily attendance of the districts participating in the consortium.

(b) From the average base revenue limit calculated in subdivision (a), subtract the elementary school district's base revenue limit per unit of average daily attendance.

(c) If the result in subdivision (b) is a positive number, then multiply the result in subdivision (b) by the elementary school district's average daily attendance in grades 7 and 8. That amount shall be added to the total revenue limit computed for that district. If the result in subdivision (b) is zero, or not positive, then no adjustment shall be computed for the district.

(d) If the elementary school district ceases to participate in the consortium, the adjustment computed in this section shall no longer be provided to that district.

SEC. 7. Due to the unique circumstances concerning the school districts in the Santa Cruz High School District attendance area, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution. These special circumstances are that the Scotts Valley Union Elementary School District and the Soquel Union Elementary School District are organized as K–8 districts and the Santa Cruz High School District is organized as a 7–12 district.

CHAPTER 1077

An act to amend Section 84200.5 of the Government Code, relating to elections.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 84200.5 of the Government Code is amended to read:

84200.5. In addition to the campaign statements required by Section 84200, elected officers, candidates, and committees shall file preelection statements as follows:

(a) During an even-numbered year, all elected state officers, all state candidates being voted upon on the first Tuesday after the first Monday in June or November, their controlled committees, and committees primarily formed to support or oppose an elected state officer or a state candidate being voted upon on the first Tuesday after the first Monday in June or November shall file the preelection statements specified in Section 84200.7. However, a candidate who is not being voted upon in the November election, his or her controlled committee, and any committee primarily formed to support or oppose that candidate is not required to file statements in connection with the November election pursuant to subdivision (b) of Section 84200.7.

(b) During an even-numbered year, all candidates not specified in subdivision (a) who are being voted upon on the first Tuesday after the first Monday in June or November, their controlled committees, and committees primarily formed to support or oppose those candidates or a measure being voted upon on the first Tuesday after the first Monday in June or November of an even-numbered year shall file the preelection statements specified in subdivision (a) of Section 84200.7 in the case of a June election, or subdivision (b) of Section 84200.7 in the case of a November election.

(c) All candidates being voted upon on a date other than the first Tuesday after the first Monday in June or November of an even-numbered year, their controlled committees, and committees primarily formed to support or oppose a candidate or a measure being voted upon on a date other than the first Tuesday after the first Monday in June or November of an even-numbered year shall file the preelection statements specified in Section 84200.8.

(d) During an even-numbered year, state and county general purpose committees formed pursuant to subdivision (a) of Section 82013 shall file the statements specified in Section 84200.7 if they make contributions or independent expenditures totaling five hundred dollars ($500) or more during the period covered by the preelection statement. State and county general purpose

committees formed pursuant to subdivision (b) or (c) of Section 82013 are not required to file the statements specified in Section 84200.7.

(e) City general purpose committees shall file statements as follows:

(1) City general purpose committees in a city which has an election on the first Tuesday after the first Monday in June or November of an even-numbered year shall file the statements specified in subdivision (a) or (b) of Section 84200.7 for the six-month period in which the city election is held, if they make contributions or independent expenditures totaling five hundred dollars ($500) or more during the period covered by the preelection statement.

(2) City general purpose committees in a city which has an election on a date other than the first Tuesday after the first Monday in June or November of an even-numbered year shall file the preelection statements specified in Section 84200.8 if they make contributions or independent expenditures totaling five hundred dollars ($500) or more during the period covered by the preelection statement.

(f) Committees formed or existing primarily to support or oppose the qualification of a ballot measure and proponents of a state ballot measure who control a committee formed or existing primarily to support the qualification of a measure, shall file a campaign statement 21 days after the deadline for filing petitions. The closing date for the period covered by a statement required by this subdivision shall be seven days prior to the deadline for filing the statement.

SEC. 2. Section 84200.5 of the Government Code is amended to read:

84200.5. In addition to the campaign statements required by Section 84200, elected officers, candidates, and committees shall file preelection statements as follows:

(a) During an even-numbered year, all candidates for elective state office being voted upon on the first Tuesday after the first Monday in June or November, their controlled committees, and committees primarily formed to support or oppose an elected state officer or a state candidate being voted upon on the first Tuesday after the first Monday in June or November and all elected state officers who, during the reporting periods covered by Section 84200.7, contribute to any committee required to report receipts, expenditures, or contributions pursuant to this title, or make an independent expenditure, shall file the preelection statements specified in Section 84200.7. However, a candidate who is not being voted upon in the November election, his or her controlled committee, and any committee primarily formed to support or oppose that candidate is not required to file statements in connection with the November election pursuant to subdivision (b) of Section 84200.7, unless, during the reporting periods covered by Section

84200.7, the candidate, his or her controlled committee, or any committee primarily formed to support or oppose that candidate contributes to any committee required to report receipts, expenditures, or contributions pursuant to this title or makes independent expenditures.

(b) During an even-numbered year, all candidates not specified in subdivision (a) who are being voted upon on the first Tuesday after the first Monday in June or November, their controlled committees, and committees primarily formed to support or oppose those candidates or a measure being voted upon on the first Tuesday after the first Monday in June or November of an even-numbered year shall file the preelection statements specified in subdivision (a) of Section 84200.7 in the case of a June election, or subdivision (b) of Section 84200.7 in the case of a November election.

(c) All candidates being voted upon on a date other than the first Tuesday after the first Monday in June or November of an even-numbered year, their controlled committees, and committees primarily formed to support or oppose a candidate or a measure being voted upon on a date other than the first Tuesday after the first Monday in June or November of an even-numbered year shall file the preelection statements specified in Section 84200.8.

(d) During an even-numbered year, state and county general purpose committees formed pursuant to subdivision (a) of Section 82013 shall file the statements specified in Section 84200.7 if they make contributions or independent expenditures totaling five hundred dollars ($500) or more during the period covered by the preelection statement. State and county general purpose committees formed pursuant to subdivision (b) or (c) of Section 82013 are not required to file the statements specified in Section 84200.7.

(e) City general purpose committees shall file statements as follows:

(1) City general purpose committees in a city which has an election on the first Tuesday after the first Monday in June or November of an even-numbered year shall file the statements specified in subdivision (a) or (b) of Section 84200.7 for the six-month period in which the city election is held, if they make contributions or independent expenditures totaling five hundred dollars ($500) or more during the period covered by the preelection statement.

(2) City general purpose committees in a city which has an election on a date other than the first Tuesday after the first Monday in June or November of an even-numbered year shall file the preelection statements specified in Section 84200.8 if they make contributions or independent expenditures totaling five hundred dollars ($500) or more during the period covered by the preelection statement.

(f) Committees formed or existing primarily to support or oppose the qualification of a ballot measure and proponents of a state ballot

measure who control a committee formed or existing primarily to support the qualification of a measure, shall file a campaign statement 21 days after the deadline for filing petitions. The closing date for the period covered by a statement required by this subdivision shall be seven days prior to the deadline for filing the statement.

SEC. 3. Section 2 of this bill incorporates amendments to Section 84200.5 of the Government Code proposed by both this bill and SB 397. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 84200.5 of the Government Code, and (3) this bill is enacted after SB 397, in which case Section 1 of this bill shall not become operative.

SEC. 4. The Legislature finds and declares that this act furthers the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 1078

An act to amend Sections 85200 and 85201 of the Government Code, relating to elections.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 85200 of the Government Code is amended to read:

85200. Prior to the solicitation or receipt of any contribution or loan, an individual who intends to be a candidate for an elective office shall file with the commission a statement signed under penalty of perjury of intention to be a candidate for a specific office.

For purposes of this section, "contribution" and "loan" do not include any payments from the candidate's personal funds for a candidate filing fee or a candidate statement of qualifications fee.

SEC. 2. Section 85201 of the Government Code is amended to read:

85201. (a) Upon the filing of the statement of intention pursuant to Section 85200, the individual shall establish one campaign contribution account at an office of a financial institution located in the state.

(b) Upon the establishment of an account, the name of the financial institution, the specific location, and the account number shall be filed with the commission within 10 days, except as provided by subdivision (h).

(c) All contributions or loans made to the candidate, to a person on behalf of the candidate, or to the candidate's controlled committee shall be deposited in the account.

(d) Any personal funds which will be utilized to promote the election of the candidate shall be deposited in the account prior to expenditure.

(e) All campaign expenditures shall be made from the account.

(f) Subdivisions (d) and (e) do not apply to a candidate's payment for a filing fee and statement of qualifications from his or her personal funds.

(g) This section does not apply to a candidate who will not receive contributions and who makes expenditures from personal funds of less than one thousand dollars ($1,000) in a calendar year to support his or her candidacy. For purposes of this section, a candidate's payment for a filing fee and statement of qualifications shall not be included in calculating the total expenditures made.

(h) Before expending one thousand dollars ($1,000) or more in a calendar year, any candidate who does not establish a campaign contribution account pursuant to subdivision (g) shall establish one campaign contribution account at an office of a financial institution located in the state and file the information required under subdivision (b) with the commission within five days of establishing the account.

SEC. 3. The Legislature finds and declares that this act furthers the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 1079

An act to amend Section 6 of Chapter 1258 of the Statutes of 1990, relating to prisons.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 6 of Chapter 1258 of the Statutes of 1990 is amended to read:

Sec. 6. (a) Pursuant to Section 4485 of the Penal Code, the requirement that county matching funds of 25 percent be provided before expenditure can be made from the 1986 County Correctional Facility Capital Expenditure Fund is waived as to the County of Butte. These bond funds shall be expended to satisfy the 25 percent matching funds requirement under Section 4485 of the Penal Code for either soft or hard match items required to be funded by the County of Butte.

(b) Pursuant to paragraph (3) of subdivision (a) of Section 4496.12 of the Penal Code, the requirement that county matching funds of 25 percent be provided before expenditure can be made from the 1988 County Correctional Facility Capital Expenditure and Youth

Facility Bond Fund is waived as to the County of Butte. These bond funds shall be expended to satisfy the 25 percent matching funds requirement under paragraph (3) of subdivision (a) of Section 4496.12 of the Penal Code for either soft or hard match items which are required to be funded by the County of Butte.

(c) Notwithstanding Section 5705 of the Welfare and Institutions Code or any other provision of law, all county matching requirements for funding of mental health services provided under the Short-Doyle Act (Part 2 (commencing with Section 5600) of Division 5 of the Welfare and Institutions Code) shall be waived, and funded by the state, as to the County of Butte for both local services and state hospitals for the 1990–91 fiscal year.

SEC. 2. (a) The authorization provided by Section 1 of this act is limited to funds allocated to Butte County from the 1986 County Correctional Facility Capital Expenditure Bond Act, and the 1988 County Correctional Facility Capital Expenditure and Youth Facility Bond Act. Bond funds identified for expenditure for juvenile facilities pursuant to Section 4485 of the Penal Code or Chapter 3 (commencing with Section 4497.20) of Title 4.85 of Part 3 of the Penal Code shall not be used to satisfy the 25 percent matching funds requirement.

(b) Notwithstanding the authorization provided by Section 1 of this act, Butte County shall only use bond funds to satisfy the 25 percent matching funds requirement to pay for architectural drawings, construction management costs, site development, including reasonable landscaping, and construction. Butte County shall not use bond funds to satisfy the 25 percent matching funds requirement to pay for site acquisition, prearchitectural drawings, needs assessment, environmental impact report costs, county administration staff development costs, and sheriff's department transition costs.

(c) Pursuant to Chapter 1519 of the Statutes of 1986 and Chapter 1327 of the Statutes of 1989, funds shall not be used to construct facilities the county is not able to safely staff and operate.

CHAPTER 1080

An act to amend Section 1211.5. of the Insurance Code, relating to insurance, and making an appropriation therefor.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 1211.5 of the Insurance Code is amended to read:

1211.5. Any domestic incorporated life insurer or casualty insurer

having admitted assets as of the preceding December 31, of at least one billion dollars ($1,000,000,000), after investing an amount equal to its required minimum paid-in capital in securities specified in Article 3 (commencing with Section 1170), may invest in, for purposes of bona fide hedging transactions, the purchase and sale of exchange traded options on stock indices, stock index futures contracts, or options on stock index futures contracts, pursuant to this section.

(a) With respect to existing common stocks owned by it, the life insurer or casualty insurer may, for purposes of hedging, buy put options on the Standard and Poors 500 Index, the Standard and Poors 100 Index, or any other index approved by the commissioner; and sell stock index futures contracts on the Standard and Poors 500 Index or any other index approved by the commissioner. The life insurer or casualty insurer may sell put options on those indices or buy stock index futures contracts pursuant to this subdivision only for the purpose of a closing transaction. All transactions authorized herein shall be made through an exchange.

(b) With respect to anticipated common stock positions, the life insurer or casualty insurer may, for purposes of hedging, buy call options on the Standard and Poors 500 Index, the Standard and Poors 100 Index, or any other index approved by the commissioner; and buy stock index futures contracts on the Standard and Poors 500 Index. Except with the prior approval of the commissioner, an investment shall not be made under the authority of this subdivision if, at the time of its making, the investment would result in the life insurer or casualty insurer hedging anticipated common stock positions in an amount exceeding 5 percent of admitted assets. The life insurer or casualty insurer may sell call options on those indices or sell stock index futures contracts pursuant to this subdivision and only for the purpose of a closing transaction. All transactions authorized herein shall be made through an exchange.

(c) The investments in bona fide hedging transactions set forth in subdivisions (a) and (b) shall not be made, unless upon execution, the option or contract is specifically identified with existing common stocks as authorized in subdivision (a) or anticipated common stock positions as authorized in subdivision (b), and the option or contract has a positive correlation (prices tend to move in the same direction with a reasonably similar magnitude) with the identified common stocks or anticipated common stock positions.

(d) A life insurer or casualty insurer shall not engage in bona fide hedging transactions and positions in options on stock indices, stock index futures contracts, or options on stock index futures contracts except pursuant to this section.

(e) A request to the commissioner to invest in, for hedging purposes, an option on a stock index, stock index futures contract, or option, on a stock index futures contract not specifically set forth in subdivision (a) or (b) shall be in writing and shall be accompanied by any supporting data and documentation that the commissioner

may require. The commissioner shall require the payment of a five thousand dollar ($5,000) fee for the determination of whether to approve or disapprove that request. A request to exceed the 5-percent limitation set forth in subdivision (b) shall be in writing and shall be deemed approved unless the commissioner disapproves it within 60 days after the request has been filed in the commissioner's office. The commissioner shall require the payment of a one thousand dollar ($1,000) fee for the determination of whether to approve or disapprove the request to exceed the limitation.

(f) Investments made pursuant to this section shall be subject to the provisions of Sections 1153.5, 1154, 1200, 1201, and 1202 as if they were excess fund investments.

(g) The commissioner may adopt rules and guidelines establishing standards and requirements relative to practices authorized in this section.

(h) As used in this section, "casualty insurer" means any insurer writing casualty insurance as defined in Section 1850.4.

CHAPTER 1081

An act to amend Section 25100 of the Corporations Code, and to amend Section 1280.7 of, and to repeal Section 1280.8 of, the Insurance Code, relating to securities.

[Approved by Governor October 14, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 25100 of the Corporations Code is amended to read:

25100. The following securities are exempted from Sections 25110, 25120, and 25130:

(a) Any security (including a revenue obligation) issued or guaranteed by the United States, any state, any city, county, city and county, public district, public authority, public corporation, public entity, or political subdivision of a state or any agency or corporate or other instrumentality of any one or more of the foregoing; or any certificate of deposit for any of the foregoing.

(b) Any security issued or guaranteed by the Dominion of Canada, any Canadian province, any political subdivision or municipality of that province, or by any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor; or any certificate of deposit for any of the foregoing.

(c) Any security issued or guaranteed by and representing an

interest in or a direct obligation of a national bank or a bank or trust company incorporated under the laws of this state, and any security issued by a bank to one or more other banks and representing an interest in an asset of the issuing bank.

(d) Any security issued or guaranteed by a federal savings and loan association or federal savings bank or federal land bank or joint land bank or national farm loan association or by any savings association, as defined in subdivision (a) of Section 5102 of the Financial Code, which is subject to the supervision and regulation of the Savings and Loan Commissioner of this state.

(e) Any security (other than an interest in all or portions of a parcel or parcels of real property which are subdivided land or a subdivision or in a real estate development), the issuance of which is subject to authorization by the Insurance Commissioner, the Public Utilities Commission, or the Real Estate Commissioner of this state.

(f) Any security consisting of any interest in all or portions of a parcel or parcels of real property which are subdivided lands or a subdivision or in a real estate development; provided that the exemption in this subdivision shall not be applicable to any investment contract sold or offered for sale with, or as part of, any such interest, or to any person engaged in the business of selling, distributing, or supplying water for irrigation purposes or domestic use which is not a public utility.

(g) Any mutual capital certificates or savings accounts, as defined in the Savings Association Law, issued by a savings association, as defined by subdivision (a) of Section 5102 of the Financial Code, and holding a license or certificate of authority then in force from the Savings and Loan Commissioner of this state.

(h) Any security issued or guaranteed by any federal credit union, or by any credit union organized and supervised, or regulated, under the Credit Union Law.

(i) Any security issued or guaranteed by any railroad, other common carrier, public utility, or public utility holding company which is (1) subject to the jurisdiction of the Interstate Commerce Commission or (2) a holding company registered with the Securities and Exchange Commission under the Public Utility Holding Company Act of 1935 or a subsidiary of that company within the meaning of that act or (3) regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, of any state, of Canada or of any Canadian province; and the security is subject to registration with or authorization of issuance by that authority.

(j) Any security (except evidences of indebtedness, whether interest bearing or not) of an issuer (1) organized exclusively for educational, benevolent, fraternal, religious, charitable, social, or reformatory purposes and not for pecuniary profit, if no part of the net earnings of the issuer inures to the benefit of any private shareholder or individual, or (2) organized as a chamber of

commerce or trade or professional association. The fact that amounts received from memberships or dues or both will or may be used to construct or otherwise acquire facilities for use by members of the nonprofit organization does not disqualify the organization for this exemption. This exemption does not apply to the securities of any nonprofit organization if any promoter thereof expects or intends to make a profit directly or indirectly from any business or activity associated with the organization or operation of that nonprofit organization or from remuneration received from that nonprofit organization.

(k) Any agreement, commonly known as a "life income contract," of an issuer (1) organized exclusively for educational, benevolent, fraternal, religious, charitable, social, or reformatory purposes and not for pecuniary profit and (2) which the commissioner designates by rule or order, with a donor in consideration of a donation of property to that issuer and providing for the payment to the donor or persons designated by him or her of income or specified periodic payments from the donated property or other property for the life of the donor or those other persons.

(*l*) Any note, draft, bill of exchange, or banker's acceptance which is freely transferable and of prime quality, arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of that paper which is likewise limited, or any guarantee of that paper or of any such renewal, provided that the paper is not offered to the public in amounts of less than twenty-five thousand dollars ($25,000) in the aggregate to any one purchaser. In addition, the commissioner may, by rule or order, exempt any issuer of any notes, drafts, bills of exchange or banker's acceptances from qualification of those securities when the commissioner finds that the qualification is not necessary or appropriate in the public interest or for the protection of investors.

(m) Any security issued by any corporation organized and existing under the provisions of Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code.

(n) Any beneficial interest in an employees' pension, profit-sharing, stock bonus or similar benefit plan which meets the requirements for qualification under Section 401 of the federal Internal Revenue Code or any statute amendatory thereof or supplementary thereto. A determination letter from the Internal Revenue Service stating that an employees' pension, profit-sharing, stock bonus or similar benefit plan meets those requirements shall be conclusive evidence that the plan is an employees' pension, profit-sharing, stock bonus or similar plan within the meaning of the first sentence of this subdivision until the date the determination letter is revoked in writing by the Internal Revenue Service, regardless of whether or not the revocation is retroactive.

(o) Any security listed or approved for listing upon notice of

issuance on a national securities exchange or designated or approved for designation upon notice of issuance as a national market system security on an interdealer quotation system by the National Association of Securities Dealers, Inc., if the exchange or interdealer quotation system has been certified by rule or order of the commissioner and any warrant or right to purchase or subscribe to the security.

That certification of any exchange or system shall be made by the commissioner upon the written request of the exchange or system if the commissioner finds that the exchange or system: (i) in acting on applications for listing of common stock substantially applies the minimum standards set forth in either alternative (A) or (B) of paragraph (1), and (ii) in considering suspension or removal from listing or designation, substantially applies each of the criteria set forth in subparagraph (2).

(1) Listing standards:

(A) (i) Shareholders' equity of at least four million dollars ($4,000,000).

(ii) Pretax income of at least seven hundred fifty thousand dollars ($750,000) in the issuer's last fiscal year or in two of its last three fiscal years.

(iii) Minimum public distribution of 500,000 shares (exclusive of the holdings of officers, directors, controlling shareholders, and other concentrated or family holdings), together with a minimum of 800 public holders or minimum public distribution of 1,000,000 shares together with a minimum of 400 public holders. The exchange or system may also consider the listing or designation of a company's securities if the company has a minimum of 500,000 shares publicly held, a minimum of 400 shareholders and daily trading volume in the issue has been approximately 2,000 shares or more for the six months preceding the date of application. In evaluating the suitability of an issue for listing or designation under this trading provision, the exchange or system shall review the nature and frequency of that activity and any other factors as it may determine to be relevant in ascertaining whether the issue is suitable for trading. A security which trades infrequently shall not be considered for listing or designation under this paragraph even though average daily volume amounts to 2,000 shares per day or more.

Companies whose securities are concentrated in a limited geographical area, or whose securities are largely held in block by institutional investors, normally may not be considered eligible for listing or designation unless the public distribution appreciably exceeds 500,000 shares.

(iv) Minimum price of three dollars ($3) per share for a reasonable period of time prior to the filing of a listing or designation application; provided, however, in certain instances an exchange or system may favorably consider listing an issue selling for less than three dollars ($3) per share after considering all pertinent factors, including market conditions in general, whether historically the

issue has sold above three dollars ($3) per share, the applicant's capitalization, and the number of outstanding and publicly held shares of the issue.

(v) An aggregate market value for publicly held shares of at least three million dollars ($3,000,000).

(B) (i) Shareholders' equity of at least four million dollars ($4,000,000).

(ii) Minimum public distribution set forth in paragraph (1) (A) (iii).

(iii) Operating history of at least three years.

(iv) An aggregate market value for publicly held shares of at least fifteen million dollars ($15,000,000).

(2) Criteria for consideration of suspension or removal from listing:

(i) If a company which (A) has shareholders' equity of less than one million dollars ($1,000,000) has sustained net losses in each of its two most recent fiscal years, or (B) has net tangible assets of less than three million dollars ($3,000,000) and has sustained net losses in three of its four most recent fiscal years.

(ii) If the number of shares publicly held (excluding the holdings of officers, directors, controlling shareholders and other concentrated or family holdings) is less than 150,000.

(iii) If the total number of shareholders is less than 400 or if the number of shareholders of lots of 100 shares or more is less than 300.

(iv) If the aggregate market value of shares publicly held is less than seven hundred fifty thousand dollars ($750,000).

(v) If shares of common stock sell at a price of less than three dollars ($3) per share for a substantial period of time and the issuer shall fail to effectuate a reverse stock split of the shares within a reasonable period of time after being requested by the exchange to take that action.

A national securities exchange or interdealer quotation system of the National Association of Securities Dealers, Inc. certified by rule or order of the commissioner under this subdivision shall file annual reports when requested to do so by the commissioner. The annual reports shall contain, by issuer: the variances granted to an exchange's listing standards or interdealer quotation system's designation criteria, including variances from corporate governance and voting rights' standards, for any security of that issuer; the reasons for the variances; a discussion of the review procedure instituted by the exchange or interdealer quotation system to determine the effect of the variances on investors and whether the variances should be continued; and any other information that the commissioner deems relevant. The purpose of these reports is to assist the commissioner in determining whether the quantitative and qualitative requirements of this subdivision are substantially being met by the exchange or system in general or with regard to any particular security.

The commissioner after appropriate notice and opportunity for

hearing in accordance with the provisions of the Administrative Procedure Act, Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, may, in his or her discretion, by rule or order, decertify any exchange or interdealer quotation system previously certified which ceases substantially to apply the minimum standards or criteria as set forth in paragraphs (1) and (2).

A rule or order of certification shall conclusively establish that any security listed or approved for listing upon notice of issuance on any exchange, or designated or approved for designation upon issuance as a national market system security on any interdealer quotation system, named in a rule or order of certification, and any warrant or right to purchase or subscribe to any such security, is exempt under this subdivision until the adoption by the commissioner of any rule or order decertifying the exchange or interdealer quotation system.

(p) A promissory note secured by a lien on real property, which is neither one of a series of notes of equal priority secured by interests in the same real property nor a note in which beneficial interests are sold to more than one person or entity.

(q) Any unincorporated interindemnity or reciprocal or interinsurance contract, which qualifies under the provisions of Section 1280.7 of the Insurance Code, between members of a cooperative corporation, organized and operating under Part 2 (commencing with Section 12200) of Division 3 of Title 1, and whose members consist only of physicians and surgeons licensed in California, which contracts indemnify solely in respect to medical malpractice claims against the members, and which do not collect in advance of loss any moneys other than contributions by each member to a collective reserve trust fund or for necessary expenses of administration.

(1) Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of Section 1280.7 of the Insurance Code, the commissioner may in the commissioner's discretion bring an action in the name of the people of the State of California in the superior court to enjoin the acts or practices or to enforce compliance with Section 1280.7 of the Insurance Code. Upon a proper showing a permanent or preliminary injunction, restraining order or writ of mandate shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets.

(2) The commissioner may, in the commissioner's discretion, (A) make such public or private investigations within or outside of this state as the commissioner deems necessary to determine whether any person has violated or is about to violate any provision of Section 1280.7 of the Insurance Code or to aid in the enforcement of Section 1280.7, and (B) publish information concerning the violation of Section 1280.7.

(3) For the purpose of any investigation or proceeding under this section, the commissioner or any officer designated by the

commissioner may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the commissioner deems relevant or material to the inquiry.

(4) In case of contumacy by, or refusal to obey a subpoena issued to, any person, the superior court, upon application by the commissioner, may issue to the person an order requiring the person to appear before the commissioner, or the officer designated by the commissioner, there to produce documentary evidence, if so ordered, or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt.

(5) No person is excused from attending or testifying or from producing any document or record before the commissioner or in obedience to the subpoena of the commissioner or any officer designated by the commissioner, or in any proceeding instituted by the commissioner, on the ground that the testimony or evidence (documentary or otherwise), required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture, but no individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which the person is compelled, after validly claiming the privilege against self-incrimination, to testify or produce evidence (documentary or otherwise), except that the individual testifying is not exempt from prosecution and punishment for perjury or contempt committed in testifying.

(6) The cost of any review, examination, audit, or investigation made by the commissioner under Section 1280.7 of the Insurance Code shall be paid to the commissioner by the person subject to the review, examination, audit, or investigation, and the commissioner may maintain an action for the recovery of these costs in any court of competent jurisdiction. In determining the cost, the commissioner may use the actual amount of the salary or other compensation paid to the persons making the review, examination, audit, or investigation plus the actual amount of expenses including overhead reasonably incurred in the performance of the work.

The recoverable cost of each review, examination, audit, or investigation made by the commissioner under Section 1280.7 of the Insurance Code shall not exceed twenty-five thousand dollars ($25,000), except that costs exceeding twenty-five thousand dollars ($25,000) shall be recoverable if the costs are necessary to prevent a violation of any provision of Section 1280.7 of the Insurance Code.

(r) Any shares or memberships issued by any corporation organized and existing pursuant to the provisions of Part 2 (commencing with Section 12200) of Division 3 of Title 1, provided the aggregate investment of any shareholder or member in shares or memberships sold pursuant to this subdivision does not exceed three hundred dollars ($300). This exemption does not apply to the shares

or memberships of any such corporation if any promoter thereof expects or intends to make a profit directly or indirectly from any business or activity associated with the corporation or the operation of the corporation or from remuneration, other than reasonable salary, received from the corporation. This exemption does not apply to nonvoting shares or memberships of any such corporation issued to any person who does not possess, and who will not acquire in connection with the issuance of nonvoting shares or memberships, voting power (Section 12253) in the corporation. This exemption also does not apply to shares or memberships issued by a nonprofit cooperative corporation organized to facilitate the creation of an unincorporated interindemnity arrangement that provides indemnification for medical malpractice to its physician and surgeon members as set forth in subdivision (q).

(s) Any security consisting of or representing an interest in a pool of mortgage loans which meets each of the following requirements:

(1) The pool consists of whole mortgage loans or participation interests in those loans, which loans were originated or acquired in the ordinary course of business by a national bank or federal savings and loan association or federal savings bank having its principal office in this state, by a bank incorporated under the laws of this state or by a savings association as defined in subdivision (a) of Section 5102 of the Financial Code and which is subject to the supervision and regulation of the Savings and Loan Commissioner, which at the time of transfer to the pool is an authorized investment for such originating or acquiring institution.

(2) The pool of mortgage loans is held in trust by a trustee which is a financial institution specified in paragraph (1) as trustee or otherwise.

(3) The loans are serviced by a financial institution specified in paragraph (1).

(4) The security is not offered in amounts of less than twenty-five thousand dollars ($25,000) in the aggregate to any one purchaser.

(5) The security is offered pursuant to a registration under the Securities Act of 1933, or pursuant to an exemption under Regulation A under that act, or in the opinion of counsel for the issuer, is offered pursuant to an exemption under Section 4(2) of that act.

SEC. 2. Section 1280.7 of the Insurance Code is amended to read:

1280.7. This chapter and the other provisions of this code, except as set forth in this paragraph, shall not apply to or affect unincorporated interindemnity or reciprocal or interinsurance contracts between members of a cooperative corporation, organized and operating under Part 2 (commencing with Section 12200) of Division 3 of Title 1 of the Corporations Code whose members consist solely of physicians and surgeons licensed in California, which contracts indemnify solely in respect to medical malpractice claims against those members, and which do not collect in advance of loss any moneys other than contributions by each member to a collective reserve trust fund or for necessary expenses of administration. The

provisions of Chapter 3 (commencing with Section 330) of Part 1 of Division 1 shall apply to unincorporated interindemnity or reciprocal or interinsurance contracts. Those unincorporated interindemnity or reciprocal or interinsurance contracts shall comply with all of the following requirements:

(a) Each participating member shall enter into and, concurrently therewith, receive an executed copy of a trust agreement, which shall govern the collection and disposition of all funds of the interindemnity arrangement.

The trust agreement shall, as a minimum, contain provision for all the following matters:

(1) An initial trust corpus of not less than ten million dollars ($10,000,000), which corpus shall be a trust fund to secure enforcement of the interindemnity arrangement. The average contribution to the initial trust corpus shall be not less than twenty thousand dollars ($20,000) per member participating in the interindemnity arrangement. The average contribution to the trust fund shall continue at all times to be not less than twenty thousand dollars ($20,000) per participating member unless the interindemnity arrangement is qualified to admit members under the terms of subdivision (k). No such interindemnity arrangement shall become operative until the requisite minimum reserve trust fund has been established by contributions from not less than 500 participating members.

(2) The reserve trust fund created by the trust agreement shall be administered by a board of trustees of three or more members, all of whom shall be physicians and surgeons licensed in California, participating members in the interindemnity arrangement, and elected biennially or more frequently by at least a majority of all members participating in the interindemnity arrangement.

(3) The members of the board of trustees are fiduciaries and the board shall be the custodian of all funds of the interindemnity arrangement, and all those funds shall be deposited in such bank or banks and savings and loan associations in California as the board may designate. Each such account shall require two or more signatories for withdrawal of funds in excess of ten thousand dollars ($10,000). The authorized signatories shall be appointed by the board and, and as to any withdrawal in excess of one hundred thousand dollars ($100,000), at least one of the two or more authorized signatories shall be a physician and surgeon licensed in California and a participating member in the interindemnity arrangement. Each signatory on those accounts shall maintain, at all times while empowered to draw on those funds, for the benefit of the interindemnity arrangement, a bond against loss suffered through embezzlement, mysterious disappearance, holdup or burglary or other loss issued by a bonding company licensed to do business in California in a penal sum of not less than one hundred thousand dollars ($100,000).

(4) All funds held in trust which are in excess of current financial

needs shall be invested and reinvested from time to time, under the direction of the board of trustees, in eligible securities, as defined in Section 16430 of the Government Code, in portfolios of eligible securities, in exchange traded financial futures contracts or exchange traded options contracts to hedge investment in those eligible securities, or in certificates of deposits or time deposits issued by banks and savings and loan associations in California duly insured by instrumentalities of the United States government.

Pursuant to the authority contained in Section 1 of Article XV of the California Constitution, the restrictions upon rates of interest contained in Section 1 of Article XV of the California Constitution shall not apply to any obligations of, loans made by, or forbearances of, any trust established by a cooperative corporation providing indemnity pursuant to this section.

(5) The income earned on the corpus of the trust fund shall be the source for the payment of the claims, costs, judgments, settlements, and costs of administration contemplated by the interindemnity arrangement, and to the extent the income is insufficient for those purposes, the board of trustees shall have the power and authority to assess participating members for all amounts necessary to meet the obligations of the interindemnity arrangement in accordance with the terms thereof. Where necessary in the best interests of the interindemnity arrangement, the board of trustees may make assessments to increase the corpus of the trust fund in accordance with the terms of the interindemnity arrangement. Any assessment levied against a member shall be the personal obligation of the member. Any person who obtains a final judgment of recovery for medical malpractice against a member of the interindemnity arrangement shall have, in addition to any other remedy, the right to assert directly all rights to indemnification which the judgment debtor has under the interindemnity arrangement. The final judgment shall be a lien on the reserve trust fund to secure payment of the judgment, limited to the extent of the judgment debtor's rights to indemnification.

Any change in the assessment agreement between the interindemnity arrangement and its membership shall be submitted to the entire membership for ratification. If the ratification process is to be performed by a mail ballot, a ballot shall be sent to each member by first-class mail, postage prepaid. Within 45 days after the posted date on the mail ballot, each member who decides to vote on the assessment change shall return his or her ballot to the interindemnity arrangement for the tallying of the ballots. An affirmative vote of 75 percent of those voting shall be required to effectuate any change in the assessment agreement.

If a change in the assessment agreement is to be submitted to members at a properly called meeting, the membership shall be notified of the meeting and the proposed assessment change by first-class mail, postage prepaid, posted at least 45 days prior to the meeting. Seventy-five percent of those present in person or by proxy

at the meeting shall be required to effectuate any change in the assessment agreement.

(6) Each participating member shall be covered by the interindemnity arrangement for not less than one million dollars ($1,000,000) for each occurrence of professional negligence, with the terms and conditions of the coverage to be specified in the trust agreement, except that the interindemnity arrangement may provide participating members with an aggregate limit for all payments on behalf of the member and may provide participating members with less than one million dollars ($1,000,000) of such coverage for each occurrence of professional negligence if the interindemnity arrangement obtains for the benefit of the members reinsurance of excess limits coverage in an amount which when added to the coverage provided by the interindemnity arrangement would equal not less than one million dollars ($1,000,000) for each occurrence of professional negligence.

Any change in the coverage provided for professional negligence by the trust agreement between the interindemnity arrangement and its membership shall be submitted to the entire membership for ratification. If the ratification process is to be performed by a mail ballot, a ballot shall be sent to each member by first-class mail, postage prepaid. Within 45 days after the posted date on the mail ballot, each member who decides to vote on the coverage change shall return his or her ballot to the interindemnity arrangement for the tallying of the ballot. An affirmative vote of 75 percent of those voting shall be required to effectuate any change in the coverage provided for professional negligence by the trust agreement.

If any such change is to be submitted to members at a properly called meeting, the membership shall be notified of the meeting and the proposed coverage change by first-class mail, postage prepaid, posted at least 45 days prior to the meeting. An affirmative vote of 75 percent of the membership present at the meeting, in person or by proxy, shall be required to effectuate any such change, except that at least 50 percent of the entire membership must agree to any such change.

(7) Withdrawal of all, or any portion of, the corpus of the reserve trust fund shall be upon the written authorization signed by at least two-thirds of the members of the board of trustees.

(8) The board of trustees shall cause both of the following to be furnished to each member participating in the interindemnity arrangement, and to be filed with the Commissioner of Corporations:

(A) Within 90 days after the end of each fiscal year a statement of the assets and liabilities of the interindemnity arrangement as of the end of that year, a statement of the revenue and expenditures of the interindemnity arrangement, and a statement of the changes in corpus of the reserve trust for that year, in each case accompanied by a certificate signed by a firm of independent certified public accountants selected by the board of trustees indicating that the firm has conducted an audit of those statements in accordance with

generally accepted auditing standards and indicating the results of the audit.

(B) Within 45 days after the end of each of the first three quarterly periods of each fiscal year a statement of the assets and liabilities of the interindemnity arrangement as of the end of the quarterly period, a statement of the revenue and expenditures of the interindemnity arrangement and a statement of the changes in corpus of the reserve trust for the period, in each case accompanied by a certificate signed by a majority of the members of the board of trustees to the effect that the statements were prepared from the official books and records of the interindemnity arrangement.

(C) In addition to the statements required to be filed pursuant to this paragraph, the board of trustees shall annually file with the Commissioner of Corporations an authorization for disclosure to the commissioner of all financial records pertaining to the interindemnity arrangement. For the purpose of this clause, the authorization for disclosure shall also include the financial records of any association, partnership, or corporation that has management or control of the funds or the operation of the interindemnity arrangement.

(9) The trust agreement shall also provide for all the following:

(A) In the event a participating member who is in full compliance with the trust agreement, including the payment of all outstanding dues and assessments, dies, the initial contribution made by the decedent shall be returned to the member's estate or designated beneficiary; the indemnity coverage shall continue for the benefit of the decedent's estate in respect of occurrences during the time the decedent was a participating member; and neither the person receiving the repayment of the initial contribution nor the decedent's estate shall be responsible for any assessments levied following the death of the member.

(B) A participating member who is then in full compliance with the trust agreement and who has reached the age of 65 and who has retired completely from the practice of medicine may elect to retire from the interindemnity arrangement, in which case the member shall not be responsible for assessments levied following the date notice of retirement is given to the trust. Following that retirement, the indemnity coverage shall continue for the benefit of the member in respect of occurrences prior to the time the member retired from the interindemnity arrangement. That retired member's initial contribution shall be repaid 10 years from the date the notice of retirement is received by the trust, or such earlier date as specified in the trust agreement. The board of trustees may reduce the age for retirement to not less than 55 years subject to all other requirements in this paragraph and any additional requirements deemed necessary by the board.

(C) During any period in which a participating member, who is then in full compliance with the trust agreement, has, in the judgment of the board of trustees, become unable to perform any

and every duty of his or her regular professional occupation, the participating member may request disability status in accordance with the terms of the interindemnity arrangement. During any period of disability status, the member shall not be responsible for assessments levied during the period and, where so provided in the interindemnity arrangement, all indemnity coverage, both as to defense and payment of claims, shall terminate as to occurrences arising out of the actions of the participating member during the period of disability status.

(D) In the event a participating member fails to pay any assessment when the same is due, the board of trustees may terminate that person's membership status if the failure to pay is not cured within 30 days from the date the assessment was due. Upon that termination the former participating member shall not be entitled to the return of all or any part of his or her initial contribution, and the indemnity coverage shall thereupon terminate as to all claims then pending against that person and in respect to all occurrences prior to the date of that termination of membership. However, in the event the interindemnity arrangement is then providing legal defense services to that person, the interindemnity arrangement shall continue to provide those services for a period of 10 days following that termination.

(E) In the event a participating member fails to comply with any provision of the trust agreement (other than a failure to pay assessments when due), the board of trustees may terminate that person's membership status if the failure to comply is not cured within 60 days from the date the person is notified of the failure; provided that before that membership status may be terminated the person shall be given the right to call for a hearing before the board of trustees (to be held before the expiration of the 60-day period), at which hearing the person shall be given the opportunity to demonstrate to the board of trustees that no failure to comply has occurred or, if it has occurred, that it has been cured. Upon that termination, the former participating member shall not be entitled to the return of all or any part of his or her initial contribution, and the indemnity coverage shall thereupon terminate as to all claims then pending against the person and in respect to all occurrences prior to the date of the termination of membership. However, in the event the interindemnity arrangement is then providing legal defense services to that person, the interindemnity arrangement shall continue to provide those services for a period of 10 days following the termination.

(F) A participating member who is then in full compliance with the trust agreement may elect voluntarily to terminate his or her membership in the interindemnity arrangement. Upon that voluntary termination, that person may further elect to cease being responsible for future assessments, or to continue to pay those assessments until the time as the person's initial contribution is repaid. In the event the person elects to cease being responsible for

future assessments, the indemnity coverage shall thereupon terminate and the person shall either be responsible for his or her own exposure for acts committed while a participating member in the interindemnity arrangement, or he or she may request the interindemnity arrangement to purchase or provide, at the cost of the person, coverage for that exposure. The initial contribution of the person shall be repaid on the 10th anniversary of the date the contribution was made. In the event the person elects to continue to be responsible for assessments, the indemnity coverage shall continue in respect of occurrences prior to the date of the voluntary termination, and the initial contribution of the person shall be repaid at such time as the board of trustees is satisfied that (i) there are no claims pending against the person in respect of occurrences during the time the person was a participating member, and (ii) the statute of limitations has run on all claims which might be asserted against that person in respect of occurrences during that time. In no event shall that repayment be made earlier than the 10th anniversary of the date the contribution was made.

Any person whose membership in an interindemnity arrangement is involuntarily terminated for failure to pay assessments or who voluntarily terminates that membership and elects to be responsible for his or her own exposure for acts committed while a participating member, shall not be eligible to become a member of any other interindemnity arrangement for a period of five years after the termination unless, on the effective date of the act which amended this section during the 1985–86 Regular Session, the person had on file with the Department of Corporations a copy of a subscription agreement signifying the person's agreement to transfer membership or had paid a minimum of ten thousand dollars ($10,000) to another interindemnity arrangement which was granted a permit to organize prior to January 1, 1985.

(G) The board of trustees shall have the right to terminate the membership of a participating member where the board of trustees determines that the termination is in the best interests of the interindemnity arrangement even though that person has complied with all of the provisions of the trust agreement. Such a termination may be effected only if at least two-thirds of the members of the board of trustees indicate in writing their decision so to terminate. If the board of trustees proposes so to terminate a member, the member shall have the right to call a special meeting of all participating members in accordance with the rules established by the board of trustees for the purpose of voting on whether or not the member shall be so terminated. The member shall not be so terminated if at least two-thirds of the participating members present, in person or by proxy, indicate that the member should not be so terminated. In the event a member is so terminated, the person shall elect either: (i) to request the return of his or her initial contribution, in which case the same shall be repaid and the indemnity coverage shall thereupon terminate as to all claims then

pending against the person and in respect to all occurrences prior to the date of the termination of membership. However, in the event the interindemnity arrangement is then providing legal defense services to the person, the interindemnity arrangement shall continue to provide those services for a period of 30 days to enable the person to assume his or her own defense; or (ii) to release all rights to the return of the initial contribution, in which case the indemnity coverage shall continue for the benefit of the member in respect of occurrences during the time the person was a participating member and the person shall have no responsibility for assessments levied following that termination. The interindemnity arrangement may provide that if a member is so terminated and fails to make the election set forth herein within 45 days of the date of notification of termination of membership, the participating member shall be deemed to have elected to release all rights to a return of his or her initial contribution, in which case indemnity coverage shall apply for the benefit of the member with respect to occurrences occurring prior to the termination.

(10) Each member participating in the interindemnity arrangement shall have the right of access to, and the inspection of, the books and records of the interindemnity arrangement, which rights shall be similar to the corporate shareholders pursuant to Section 3003 of the Corporations Code, or, commencing January 1, 1977, Sections 1600 to 1605, inclusive, of the Corporations Code.

(11) There shall be a meeting of all members participating in the interindemnity arrangement, at least annually, after not less than 10 days' written notice has been given, at a location reasonably convenient to the participating members and on a date which is within a reasonable period of time following the distribution of the annual financial statements.

(12) Notwithstanding Sections 12453 and 12703 of the Corporations Code, on any matter to be voted upon by the membership at either a regular or special meeting, a member shall have the right to vote in person or by written proxy filed with the corporate secretary prior to the meeting. No such proxy shall be made irrevocable, nor be valid beyond the earliest of the following dates:

(A) The date of expiration set forth in the proxy; or

(B) The date of termination of membership; or

(C) Eleven months from the date of execution of the proxy; or

(D) Such time as may be specified in the bylaws, not to exceed 11 months.

(13) The interindemnity arrangement, and the reserve trust fund incident thereto, shall be subject to termination at any time by the vote or written consent of not less than three-fourths of the participating members.

(b) The board of trustees shall cause to be recorded with the office of the county recorder of the county of the principal place of business of the interindemnity arrangement within 90 days following the end

of each fiscal year, a written statement, executed by a majority of the board of trustees under penalty of perjury, reciting that each member participating in the interindemnity arrangement was mailed a copy of the annual financial statement and quarterly audit certificates by first-class mail, postage prepaid, required pursuant to paragraph (8) of subdivision (a).

(c) Each person solicited to become a participating member in such an interindemnity arrangement shall receive in writing, at least 48 hours prior to the execution by the prospective participating member of the trust agreement, and at least 48 hours prior to the payment by the prospective participating member of any consideration in connection with the interindemnity arrangements, the following information:

(1) A copy of the articles of incorporation and bylaws of the cooperative corporation and a copy of the form of trust agreement to be executed by the prospective participating member.

(2) A disclosure statement regarding the interindemnity arrangement. The disclosure statement shall contain on the first or cover page a legend in boldface type reading substantially as follows:

"THE INTERINDEMNITY ARRANGEMENT CONTEMPLATED HEREIN PROVIDES THAT PARTICIPATING MEMBERS HAVE UNLIMITED PERSONAL LIABILITY FOR ASSESSMENTS WHICH MAY BE LEVIED TO PAY FOR THE PROFESSIONAL NEGLIGENCE LIABILITIES COVERED BY THIS ARRANGEMENT. NO ASSURANCES CAN BE GIVEN REGARDING THE AMOUNT OR FREQUENCY OF ASSESSMENTS WHICH MAY BE SO LEVIED, OR THAT ALL PARTICIPATING MEMBERS WILL MAKE TIMELY PAYMENT OF THEIR ASSESSMENTS TO COVER THE PROFESSIONAL NEGLIGENCE LIABILITY OF A PARTICIPATING MEMBER."

(3) The disclosure statement shall further contain all of the following information:

(A) The amount, nature and terms and conditions of the professional negligence coverage available under the interindemnity arrangement.

(B) The amount of the initial contribution required of each participating member and a statement of the minimum number of members and aggregate contributions required for the interindemnity arrangement to commence.

(C) The names, addresses and professional experience of each member of the board of trustees.

(D) The requirements for admission as a participating member.

(E) A statement of the services to be provided under the interindemnity arrangement to each participating member.

(F) A statement regarding the obligation of each member to pay assessments and the consequences for failure to do so.

(G) A statement of the rights and obligations of a participating member in the event the member dies, retires, becomes disabled or terminates participation for any reason, or the interindemnity

arrangement terminates for any reason.

(H) A statement regarding the services to be provided, indicating whether these services will be delegated to others pursuant to a contractual arrangement. For those services delegated to others pursuant to a contractual arrangement, a statement fully disclosing and itemizing all consideration received directly or indirectly under the arrangement, and indicating what the consideration is for, and how, when, and to whom the consideration will be paid.

(I) A statement of the voting rights of the members and the circumstances under which participation of such a member may be terminated and under which the interindemnity arrangement may be terminated.

(J) If any statement of estimated or projected financial information for the interindemnity arrangement is used, a statement of the estimation or projection and a summary of the data and assumptions upon which it is based.

(4) A list with the names and addresses of current participating members of the interindemnity arrangement.

(d) No officer, director, trustee, employee or member of the interindemnity arrangement or the cooperative corporation shall receive, or be entitled to receive, any payment, bonus, salary, income, compensation or other benefit whatsoever, either from the reserve trust fund or the income therefrom or from any other funds of the interindemnity arrangement or the members thereof based on the number of participating members, or the amount of the reserve trust fund or other funds of the interindemnity arrangement.

(e) A peer review committee or committees shall be established by the trust agreement to review the qualifications of any physician and surgeon to participate or continue to participate in the interindemnity arrangement, and to review the quality of medical services rendered by any participating member, as well as the validity of medical malpractice claims made against participating members. Any physician and surgeon, prior to becoming a participating member of the interindemnity arrangement, shall be reviewed and approved by a majority of the members of the peer review committee. No peer review committee, or any of its members, shall be liable for any action taken by the committee in reviewing the qualifications of a physician and surgeon to participate or continue to participate, or the quality of medical services rendered, or the validity of a medical malpractice claim, unless it is alleged and proved that the action was taken with actual malice.

(f) The following are hereby defined as unfair methods of competition and deceptive acts or practices with respect to cooperative corporations or interindemnity arrangements provided for in this section.

(1) Making any false or misleading statement as to, or issuing, circulating, or causing to be made, issued or circulated, any estimate, illustration, circular, or statement misrepresenting the terms of any interindemnity arrangement or the benefits or advantages promised

thereby, or making any misleading representation or any misrepresentation as to the financial condition of the interindemnity arrangement, or making any misrepresentation to any participating member for the purpose of inducing or tending to induce the member to lapse, forfeit, or surrender his or her rights to indemnification under the interindemnity arrangement. It shall be a false or misleading statement to state or represent that a cooperative corporation or interindemnity arrangement is or constitutes "insurance" or an "insurance company" or an "insurance policy."

(2) Making or disseminating or causing to be made or disseminated before the public in this state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatsoever, any statement containing any assertion, representation, or statement with respect to those cooperative corporations or interindemnity arrangements, or with respect to any person in the conduct of those cooperative corporations or interindemnity arrangements, which is untrue, deceptive, or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue, deceptive, or misleading. It shall be a false or misleading statement to state or represent that a cooperative corporation or interindemnity arrangement is or constitutes "insurance" or an "insurance company" or an "insurance policy."

(3) Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion, or intimidation resulting in or tending to result in an unreasonable restraint of, or monopoly in, those cooperative corporations or interindemnity arrangements.

(4) Filing with any supervisory or other public official, or making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, or delivered to any person, or placed before the public any false statement of financial condition of such a cooperative corporation or interindemnity arrangement with intent to deceive.

(5) Making any false entry in any book, report, or statement of such a cooperative corporation or interindemnity arrangement with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom such a cooperative corporation or interindemnity arrangement is required by law to report, or who has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to such a cooperative corporation or interindemnity arrangement in any book, report, or statement of such a cooperative corporation or interindemnity arrangement.

(6) Making or disseminating, or causing to be made or disseminated, before the public in this state, in any newspaper or

other publication, or any other advertising device, or by public outcry or proclamation, or in any other manner or means whatever, whether directly or by implication, any statement that such a cooperative corporation or interindemnity arrangement is a member of the California Insurance Guarantee Association, or insured against insolvency as defined in Section 119.5. This paragraph shall not be interpreted to prohibit any activity of the California Insurance Guarantee Association or of the commissioner authorized, directly or by implication, by Article 14.2 (commencing with Section 1063) of Chapter 1 of this part.

(7) Knowingly committing or performing with such frequency as to indicate a general business practice any of the following unfair claims settlement practices:

(A) Misrepresenting to claimants pertinent facts or provisions relating to any coverage at issue.

(B) Failing to acknowledge and act promptly upon communications with respect to claims arising under that interindemnity arrangements.

(C) Failing to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under those interindemnity arrangements.

(D) Failing to affirm or deny coverage of claims within a reasonable time after proof of claim requirements have been completed and submitted by the participating member.

(E) Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear.

(F) Compelling participating members to institute litigation to recover amounts due under an interindemnity arrangement by offering substantially less than the amounts ultimately recovered in actions brought by those participating members when those participating members have made claims under those interindemnity arrangements for amounts reasonably similar to the amounts ultimately recovered.

(G) Attempting to settle a claim by a participating member for less than the amount to which a reasonable person would have believed he or she was entitled by reference to written or printed advertising material accompanying or made part of an application for membership in such an interindemnity arrangement.

(H) Attempting to settle claims on the basis of an interindemnity arrangement which was altered without notice to the participating member.

(I) Failing, after payment of a claim, to inform participating members, upon request by them, of the coverage under which payment has been made.

(J) Making known to claimants a practice of the cooperative corporation or interindemnity arrangement of appealing from arbitration awards in favor of claimants for the purpose of compelling them to accept settlements or compromises less than the amount

awarded in arbitration.

(K) Delaying the investigation or payment of claims by requiring a claimant, or his or her physician, to submit a preliminary claim report, and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information.

(L) Failing to settle claims promptly, where liability has become apparent, under one portion of an interindemnity arrangement in order to influence settlements under other portions of the interindemnity arrangement.

(M) Failing to provide promptly a reasonable explanation of the basis relied on in the interindemnity arrangement, in relation to the facts of applicable law, for the denial of a claim or for the offer of a compromise settlement.

(N) Directly advising a claimant not to obtain the services of an attorney.

(O) Misleading a claimant as to the applicable statute of limitations.

(g) Notwithstanding any contrary provisions of Part 2 (commencing with Section 12200) of Division 3 of Title 1 of the Corporations Code, it shall not be necessary to hold a meeting of members of the cooperative corporation for the purpose of electing directors if the bylaws provide the election may be held by first-class mail balloting. First-class mail balloting may also be used in conjunction with a meeting at which directors are to be elected and all mail ballots shall count toward establishing a quorum for the meeting for the limited purpose of the issues set forth in the mail ballot. Directors shall be elected as follows:

(1) The candidates receiving the highest number of votes, up to the number of directors to be elected, by a specified date at least 45 days but not later than 60 days after the ballots are first mailed, postage prepaid, to the members (or the date of a meeting of members held in conjunction therewith) shall be elected.

(2) In the event that no candidate receives a majority of the votes cast for a vacant office, a runoff election shall be held between the two candidates receiving the highest number of votes cast. The runoff election shall be held at least 45 days but not more than 60 days after the ballots for the election are mailed, postage prepaid. In the event that there is more than one office for which no candidate receives a majority of the votes cast, the candidates for the runoff shall be twice the number of vacant offices, and shall be those persons who received the highest number of votes therefor.

Those first-class mail ballots shall be kept on file for a period of three months after all vacant board positions have been filled, and shall be subject to inspection at any reasonable time by any members of the cooperative corporation.

(h) No officer, director, trustee, or member of the interindemnity arrangement or the cooperative corporation, or any entity in which that person has a material financial interest, shall enter into or renew

any transaction or contract with the trust unless the material facts as to the transaction or contract and as to the interest of the person are fully disclosed to the participating members, and the transaction or contract is approved by an affirmative vote of at least 75 percent of the membership present at a meeting, in person or by proxy. If any such transaction or contract is to be submitted to members at a properly called meeting, the membership shall be notified of the meeting and of the transaction or contract by first-class mail, postage prepaid, at least 45 days prior to the meeting.

(i) Services provided to the trust pursuant to a delegated contractual arrangement shall be embodied in a written contract. Each written contract shall provide for reasonable consideration to the parties. In addition, each written contract shall be disclosed annually to participating members in a disclosure report containing the information described in subparagraph (H) of paragraph (3) of subdivision (c). The disclosure report shall be sent to participating members by first-class mail, postage prepaid, and shall be mailed separately from any statements, records, or other documents. The disclosure requirements of this subdivision shall apply to all existing and future written contracts.

(j) Upon request of the Commissioner of Corporations, an interindemnity arrangement shall immediately forward to the commissioner a current list of participating members, including the names, addresses, and telephone numbers of those members.

(k) Notwithstanding any provision to the contrary, whenever the membership of a cooperative organization, organized pursuant to Part 2 (commencing with Section 12200) of Division 3 of Title 1 of the Corporations Code and consisting solely of physicians and surgeons licensed in this state amounts to 2,000 or more members and the trust fund is at least 40 million dollars ($40,000,000), which is available to the public for malpractice claims, the cooperative is authorized to admit members without a contribution to that trust fund if assessments are charged to each of those members within the first 50 months in an amount equal to the amount of the contribution to the reserve fund that would otherwise be required.

SEC. 3. Section 1280.8 of the Insurance Code is repealed.

CHAPTER 1082

An act to amend Sections 23301, 23301.5, 23301.6, 23302, 23304.1, 23305, 23305a, 23305c, and 23305.1 of, and to repeal Section 23571 of, the Revenue and Taxation Code, and to amend Section 17 of Chapter 926 of the Statutes of 1990, relating to taxation.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 23301 of the Revenue and Taxation Code is amended to read:

23301. Except for the purposes of filing an application for exempt status or amending the articles of incorporation as necessary either to perfect that application or to set forth a new name, the corporate powers, rights and privileges of a domestic taxpayer may be suspended, and the exercise of the corporate powers, rights and privileges of a foreign taxpayer in this state may be forfeited, if any of the following conditions occur:

(a) If any tax, penalty, or interest, or any portion thereof, which is due and payable under this part either at the time the return is required to be filed, or on or before the 15th day of the ninth month following the close of the income year, is not paid on or before 6 p.m. on the last day of the 12th month after the close of the income year.

(b) If any tax, penalty, or interest, or any portion thereof, due and payable under this part upon notice and demand from the Franchise Tax Board, including that due and payable under Section 25936, is not paid on or before 6 p.m. on the last day of the 11th month following the due date of the tax.

(c) If any liability, or any portion thereof, which is due and payable under Article 5 (commencing with Section 18681) of Chapter 18 of Part 10, is not paid on or before 6 p.m. on the last day of the 11th month following the date that the tax liability is due and payable.

SEC. 1.5. Section 23301 of the Revenue and Taxation Code is amended to read:

23301. Except for the purposes of filing an application for exempt status or amending the articles of incorporation as necessary either to perfect that application or to set forth a new name, the corporate powers, rights and privileges of a domestic taxpayer may be suspended, and the exercise of the corporate powers, rights and privileges of a foreign taxpayer in this state may be forfeited, if any of the following conditions occur:

(a) If any tax, penalty, or interest, or any portion thereof, which is due and payable under this part either at the time the return is required to be filed, or on or before the 15th day of the ninth month following the close of the income year, is not paid on or before 6 p.m.

on the last day of the 12th month after the close of the income year.

(b) If any tax, penalty, or interest, or any portion thereof, due and payable under this part upon notice and demand from the Franchise Tax Board, including that due and payable under Section 25936, is not paid on or before 6 p.m. on the last day of the 11th month following the due date of the tax.

(c) If any liability, or any portion thereof, which is due and payable under Article 7 (commencing with Section 19131) of Chapter 4 of Part 10.2, is not paid on or before 6 p.m. on the last day of the 11th month following the date that the tax liability is due and payable.

SEC. 2. Section 23301.5 of the Revenue and Taxation Code is amended to read:

23301.5. Except for the purposes of filing an application for exempt status or amending the articles of incorporation as necessary either to perfect that application or to set forth a new name, the corporate powers, rights, and privileges of a domestic taxpayer may be suspended, and the exercise of the corporate powers, rights, and privileges of a foreign taxpayer in this state may be forfeited, if a taxpayer fails to file a tax return required by this part.

SEC. 3. Section 23301.6 of the Revenue and Taxation Code is amended to read:

23301.6. Sections 23301, 23301.5, and 23775 shall apply to a foreign taxpayer only if the taxpayer is qualified to do business in California. A taxpayer that is required under Section 2105 of the Corporations Code to qualify to do business shall not be deemed to have qualified to do business for purposes of this article unless the taxpayer has in fact qualified with the Secretary of State.

SEC. 4. Section 23302 of the Revenue and Taxation Code is amended to read:

23302. (a) Forfeiture or suspension of a taxpayer's powers, rights, and privileges pursuant to Section 23301, 23301.5, or 23775 shall occur and become effective only as expressly provided in this section in conjunction with Section 21020, which requires notice prior to the suspension of a taxpayer's corporate powers, rights, and privileges.

(b) The notice requirements of Section 21020 shall also apply to any forfeiture of a taxpayer's corporate powers, rights, and privileges pursuant to Section 23301, 23301.5, or 23775 and to any voidability pursuant to subdivision (d) of Section 23304.1.

(c) The Franchise Tax Board shall transmit the names of taxpayers to the Secretary of State as to which the suspension or forfeiture provisions of Section 23301, 23301.5, or 23775 are or become applicable, and the suspension or forfeiture therein provided for shall thereupon become effective. The certificate of the Secretary of State shall be prima facie evidence of the suspension or forfeiture.

(d) If a taxpayer's powers, rights, and privileges are forfeited or suspended pursuant to Section 23301, 23301.5, or 23775, without limiting any other consequences of such forfeiture or suspension, the

taxpayer shall not be entitled to sell, transfer, or exchange real property in California during the period of forfeiture or suspension.

SEC. 5. Section 23304.1 of the Revenue and Taxation Code is amended to read:

23304.1. (a) Every contract made in this state by a taxpayer during the time that the taxpayer's corporate powers, rights, and privileges are suspended or forfeited pursuant to Section 23301, 23301.5, or 23775 shall, subject to Section 23304.5, be voidable at the instance of any party to the contract other than the taxpayer.

(b) If a foreign taxpayer that neither is qualified to do business nor has a corporate account number from the Franchise Tax Board, fails to file a tax return required under this part, any contract made in this state by that taxpayer during the applicable period specified in subdivision (c) shall, subject to Section 23304.5, be voidable at the instance of any party to the contract other than the taxpayer.

(c) For purposes of subdivision (b), the applicable period shall be the period beginning on January 1, 1991, or the first day of the income year for which the taxpayer has failed to file a return, whichever is later, and ending on the earlier of the date the taxpayer qualified to do business in this state or the date the taxpayer obtained a corporate account number from the Franchise Tax Board.

(d) If a taxpayer fails to file a tax return required under this part, to pay any tax or other amount owing to the Franchise Tax Board under this part or to file any statement or return required under Section 23772 or 23774, within 60 days after the Franchise Tax Board mails a written demand therefor, any contract made in this state by the taxpayer during the period beginning at the end of the 60-day demand period and ending on the date relief is granted under Section 23305.1, or the date the taxpayer qualifies to do business in this state, whichever is earlier, shall be voidable at the instance of any party to the contract other than the taxpayer. This subdivision shall apply only to a taxpayer if the taxpayer has a corporate account number from the Franchise Tax Board, but has not qualified to do business under Section 2105 of the Corporations Code. In the case of a taxpayer that has not complied with the 60-day demand, the taxpayer's name, Franchise Tax Board corporate account number, date of the demand, date of the first day after the end of the 60-day demand period, and the fact that the taxpayer did not within that period pay the tax or other amount or file the statement or return, as the case may be, shall be a matter of public record.

SEC. 5.5. Section 23304.1 of the Revenue and Taxation Code is amended to read:

23304.1. (a) Every contract made in this state by a taxpayer during the time that the taxpayer's corporate powers, rights, and privileges are suspended or forfeited pursuant to Section 23301, 23301.5, or 23775 shall, subject to Section 23304.5, be voidable at the instance of any party to the contract other than the taxpayer.

(b) If a foreign taxpayer that neither is qualified to do business nor has a corporate account number from the Franchise Tax Board, fails

to file a tax return required under this part, any contract made in this state by that taxpayer during the applicable period specified in subdivision (c) shall, subject to Section 23304.5, be voidable at the instance of any party to the contract other than the taxpayer.

(c) For purposes of subdivision (b), the applicable period shall be the period beginning on January 1, 1991, or the first day of the income year for which the taxpayer has failed to file a return, whichever is later, and ending on the earlier of the date the taxpayer qualified to do business in this state or the date the taxpayer obtained a corporate account number from the Franchise Tax Board.

(d) If a taxpayer fails to pay any tax or other amount owing to the Franchise Tax Board under this part, or to file any statement or return, required under Chapter 19 (commencing with Section 25401) or Section 23771, within 60 days after the Franchise Tax Board mails a written demand therefor, any contract made in this state by the taxpayer during the period beginning at the end of the 60-day demand period and ending on the date relief is granted under Section 23305.1, or the date the taxpayer qualifies to do business in this state, whichever is earlier, shall be voidable at the instance of any party to the contract other than the taxpayer. This subdivision shall apply only to a taxpayer if the taxpayer has a corporate account number from the Franchise Tax Board, but has not qualified to do business under Section 2105 of the Corporations Code. In the case of a taxpayer that has not complied with the 60-day demand, the taxpayer's name, Franchise Tax Board corporate account number, date of the demand, date of the first day after the end of the 60-day demand period, and the fact that the taxpayer did not within that period pay the tax or other amount or file the statement or return, as the case may be, shall be a matter of public record.

SEC. 6. Section 23305 of the Revenue and Taxation Code is amended to read:

23305. Any taxpayer which has suffered the suspension or forfeiture provided for in Section 23301 or 23301.5 may be relieved therefrom upon making application therefor in writing to the Franchise Tax Board and upon the filing of all tax returns required under this part, and the payment of the tax, additions to tax, penalties, interest, and any other amounts for nonpayment of which the suspension or forfeiture occurred, together with all other taxes, additions to tax, penalties, interest, and any other amounts due under this part, and upon the issuance by the Franchise Tax Board of a certificate of revivor. Application for the certificate on behalf of any taxpayer which has suffered suspension or forfeiture may be made by any stockholder or creditor, by a majority of the surviving trustees or directors thereof, by an officer, or by any other person who has interest in the relief from suspension or forfeiture.

SEC. 7. Section 23305a of the Revenue and Taxation Code is amended to read:

23305a. Before the certificate of revivor is issued by the Franchise Tax Board, it shall obtain from the Secretary of State an endorsement

upon the application of the fact that the name of the taxpayer then meets the requirements of subdivision (b) of Section 201 of the Corporations Code in the case of a domestic taxpayer or of subdivision (b) of Section 2106 of the Corporations Code in the case of a foreign taxpayer that has qualified to do business. The reference to amendment of the articles of incorporation to set forth a new name contained in Sections 23301, 23301.5, and 23775 includes in the case of a foreign taxpayer the filing of an amended statement and designation to set forth its new name or to set forth an assumed name under subdivision (b) of Section 2106 of the Corporations Code. Upon the issuance of the certificate by the Franchise Tax Board the taxpayer therein named shall become reinstated but the reinstatement shall be without prejudice to any action, defense or right which has accrued by reason of the original suspension or forfeiture, except that contracts which were voidable pursuant to Section 23304.1, but which have not been rescinded pursuant to Section 23304.5, may have that voidability cured in accordance with Section 23305.1. The certificate of revivor shall be prima facie evidence of the reinstatement and the certificate may be recorded in the office of the county recorder of any county of this state.

SEC. 8. Section 23305c of the Revenue and Taxation Code is amended to read:

23305c. (a) Upon issuance of the certificate of revivor, the Franchise Tax Board shall transmit to the Secretary of State the revived taxpayer's name and its corporate number.

(b) The taxpayer's name and number, the fact that the taxpayer's corporate powers, rights, and privileges have been revived and the effective date of the revivor shall be a matter of public record.

(c) If the Franchise Tax Board determines that a suspension or forfeiture was in error by the Franchise Tax Board, the Franchise Tax Board shall, in connection with the revivor, indicate that the taxpayer is "restored." The status of the restored taxpayer shall be retroactive to the date of suspension or forfeiture as if there had been no suspension or forfeiture.

(d) If the Franchise Tax Board determines that the mailing of the 60-day demand notice referred to in subdivision (d) of Section 23304.1 was in error or that the Franchise Tax Board's original determination as to compliance with the 60-day demand notice was in error, the Franchise Tax Board's revised conclusions also shall be part of the public record referred to in that subdivision.

SEC. 9. Section 23305.1 of the Revenue and Taxation Code is amended to read:

23305.1. (a) A taxpayer may make application to the Franchise Tax Board for relief from the voidability provisions of Section 23304.1. To be relieved from voidability, the taxpayer shall do all of the following:

(1) Provide the Franchise Tax Board with an application for relief from contract voidability in a form and manner prescribed by the Franchise Tax Board.

(2) Include on the application the period for which relief is requested, which period shall begin on the date that one of the taxpayer's income years begins and ends on the date that relief is granted.

(3) File any tax returns required to be filed under this part with the Franchise Tax Board, including returns for the period for which relief is requested.

(4) Pay any tax, additions to tax, penalties, interest, and any other amounts owing to the Franchise Tax Board, including any such liability attributable to the period for which relief is requested.

(5) Pay any penalty imposed under subdivision (b) for the period for which relief is requested.

(b) The Franchise Tax Board shall assess a daily penalty equal to one hundred dollars ($100) for each day of the period for which relief from voidability is granted, but not to exceed a total penalty equal to the amount of the tax for the period for which relief is requested. Any penalty imposed under this subdivision shall, subject to Section 23305.2, be due and payable on demand by the Franchise Tax Board.

(c) (1) Upon satisfaction of the conditions specified in subdivision (a), including through the application of Section 23305.2, the following shall apply:

(A) All contracts entered into during the period for which relief is granted that have not been rescinded by a final court order pursuant to Section 23304.5 may be enforced in the same manner and to the same extent, with regard to both the parties to the contract and any third parties, as if the contract had never been voidable.

(B) Any sale, transfer, or exchange of real property in California during the period for which relief is granted and which the taxpayer at that time was not entitled to sell, transfer, or exchange by reason of subdivision (d) of Section 23302 and which has not been rescinded by a final court order pursuant to Section 23304.5, shall be as valid as if the taxpayer had not been subject to subdivision (d) of Section 23302 at the time of the sale, transfer, or exchange.

(2) Upon being granted relief from voidability, the Franchise Tax Board shall certify that relief to the taxpayer in a form and manner as prescribed by the Franchise Tax Board. The certificate shall be issued or mailed to the taxpayer, or as directed by the taxpayer, and shall indicate the period for which relief is granted.

(d) The fact that a certificate of relief from voidability was issued pursuant to this section and the information contained on that certificate shall be subject to public disclosure. The certificate shall be prima facie evidence of the relief from voidability for contracts entered into during the period of relief stated on the certificate and the certificate may be recorded in the office of the county recorder of any county of this state.

(e) A taxpayer that applies for revivor under Section 23305 shall not be entitled to later apply for relief from voidability under this section, but must simultaneously apply for revivor and relief from voidability. A taxpayer that applies for relief from voidability under

this section shall not be entitled to later apply for relief from voidability for any income year ending prior to the date of the application, but shall simultaneously apply for relief for all income years prior to that date.

(f) Subject to limitations set forth in Section 17 of Chapter 926 of the Statutes of 1990, a taxpayer that received a certificate of revivor between January 1, 1990, and January 1, 1991, may apply for relief from voidability under this section.

SEC. 10. Section 23571 of the Revenue and Taxation Code is repealed.

SEC. 11. Section 17 of Chapter 926 of the Statutes of 1990 is amended to read:

Sec. 17. (a) No contract entered into by a taxpayer prior to the effective date of this act shall be voidable under Article 7 (commencing with Section 23301) of Chapter 2 of the Revenue and Taxation Code, unless the contract was entered into during the time that the taxpayer's powers, rights, and privileges in this state were forfeited or suspended by the Franchise Tax Board through notice to the Secretary of State as provided in Section 23302 of the Revenue and Taxation Code. A contract entered into after the effective date of this act by a taxpayer that has not been forfeited or suspended by the Franchise Tax Board through notice to the Secretary of State shall be voidable only to the extent expressly provided in subdivision (b) or (d) of Section 23304.1 of the Revenue and Taxation Code.

(b) A taxpayer that entered into a contract during a time when the taxpayer's powers, rights, and privileges were forfeited or suspended by the Franchise Tax Board in accordance with the procedures set forth in Section 23302 of the Revenue and Taxation Code, even if the contract was entered into before the effective date of this act, shall be entitled to apply for relief from voidability pursuant to Section 23305.1 of the Revenue and Taxation Code in connection with an application for revivor. A taxpayer that received a certificate of revivor after January 1, 1990, and prior to the effective date of this act, may apply for relief from voidability with respect to any contract that is voidable because the contract was entered into by the taxpayer at a time when the taxpayer's corporate powers, rights, and privileges were suspended or forfeited.

(c) Notwithstanding subdivision (a) or (b), the Legislature intends that this act shall not be construed in any manner that would affect the rights of any party to any action that has been commenced in a court of competent jurisdiction prior to the date of enactment of this act, or the rights of any such party in a subsequent action based upon the same claims as those asserted in the prior action, and that all such rights shall be determined without application of any provisions of this act, and shall be determined by the law in effect prior to the effective date of this act.

SEC. 12. This act is intended to correct and further define those provisions of law set forth in Chapter 926 of the Statutes of 1990, which became effective on January 1, 1991, and this act shall be

applicable with respect to income years beginning on and after January 1, 1991.

SEC. 13. Section 1.5 of this bill incorporates amendments to Section 23301 of the Revenue and Taxation Code proposed by both this bill and SB 720. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 23301 of the Revenue and Taxation Code, and (3) this bill is enacted after SB 720, in which case Section 1 of this bill shall not become operative.

SEC. 14. Section 5.5 of this bill incorporates amendments to Section 23304.1 of the Revenue and Taxation Code proposed by both this bill and SB 426. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2) each bill amends Section 23304.1 of the Revenue and Taxation Code, and (3) this bill is enacted after SB 426, in which case Section 23304.1 of the Revenue and Taxation Code, as amended by SB 426, shall remain operative only until the operative date of this bill, at which time Section 5.5 of this bill shall become operative, and Section 5 of this bill shall not become operative.

CHAPTER 1083

An act to amend Section 76219 of, and to add Section 26608.4 to, the Government Code, relating to the judicial system, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 26608.4 is added to the Government Code, to read:

26608.4. (a) In Santa Barbara County, the board of supervisors by ordinance or resolution may transfer from the sheriff to the marshal of the Santa Barbara County Municipal Courts, the duty to serve all writs, notices, and other process issued by any state court or other competent authority.

(b) After adoption of the ordinance or resolution pursuant to subdivision (a), and notwithstanding any other provision of law, in Santa Barbara County the marshal, as provided in the ordinance or resolution, shall have the duty to serve all writs, notices, or other process issued by any state court or other competent authority, and the sheriff shall be relieved of any obligation imposed by Section 26608 and any liability imposed by Section 26663 or 26664.

(c) Nothing in this section shall be construed as limiting the responsibility or authority of a private person or registered process server from serving process and notices in the manner prescribed by

law, nor shall it limit the authority of the sheriff or any other peace officer to serve warrants of arrest or other process specifically directed by a court to the sheriff or any other peace officer.

SEC. 2. Section 76219 of the Government Code, as added by Chapter 189 of the Statutes of 1991, is amended to read:

76219. (a) The Courthouse Construction Fund established in Los Angeles County pursuant to Section 76100 shall be known as the Robbins Courthouse Construction Fund.

(b) All courtroom construction in the County of Los Angeles which utilizes moneys from the Robbins Courthouse Construction Fund or moneys borrowed and owed against the Robbins Courthouse Construction Fund shall be within the boundaries of the San Fernando Valley Statistical Area and the Los Cerritos Municipal Court District, until the time that the County of Los Angeles has spent a total of at least forty-three million dollars ($43,000,000) on courthouse construction within the San Fernando Valley Statistical Area and at least eight million dollars ($8,000,000) within the Los Cerritos Municipal Court District for the Bellflower Courthouse.

(c) All courtroom construction in the County of Los Angeles which utilizes moneys from the Robbins Courthouse Construction Fund or moneys borrowed against the Robbins Courthouse Construction Fund shall be within the boundaries of the San Fernando Valley Statistical Area, within the boundaries of the Los Cerritos Municipal Court District, within the boundaries of the East Los Angeles Municipal Court District, within the Downey Municipal Court District, within the community of Hollywood, or within the West Los Angeles Branch of the Los Angeles Municipal Court District, until the time that the County of Los Angeles has fulfilled the requirements of subdivision (d) and has additionally spent at least sixteen million five hundred thousand dollars ($16,500,000) on courthouse construction within the East Los Angeles Municipal Court District, has spent at least ten million dollars ($10,000,000) on courthouse construction within the Downey Municipal Court District, has commenced construction on a courthouse with at least six courtrooms in the West San Fernando Valley, has commenced construction on a courthouse with at least two courtrooms in the community of Hollywood, has commenced construction on a courthouse for the superior court with at least 18 courtrooms in the North Hollywood Redevelopment Project Area of the City of Los Angeles or immediately adjacent thereto, and has commenced construction on a courthouse for the West Los Angeles Branch of the Los Angeles Municipal Court District. In the event that physical construction of the courthouse for the superior court in the North Hollywood Redevelopment Project Area of the City of Los Angeles is commenced on or before April 30, 1994, and completed within 24 months following commencement of construction, then a courthouse of at least 15 courtrooms shall be deemed to have satisfied the minimum size requirement.

(d) All courtroom construction in the County of Los Angeles

which utilizes moneys from the Robbins Courthouse Construction Fund or moneys borrowed against the Robbins Courthouse Construction Fund shall be within the boundaries of the San Fernando Valley Statistical Area, within the boundaries of the Los Cerritos Municipal Court District, within the boundaries of the East Los Angeles Municipal Court District, within the Downey Municipal Court District, within the community of Hollywood, within the West Los Angeles Branch of the Los Angeles Municipal Court District, within the Pasadena Judicial District, within the Southeast Municipal Court District, within the South Bay Judicial District, within the Santa Monica Judicial District, within the Antelope Valley Judicial District, or within the Long Beach Judicial District until the time that the County of Los Angeles has fulfilled the requirements of subdivisions (b) and (c), and has commenced construction of new facilities or the expansion of existing facilities for the municipal courts in the Pasadena Judicial District, the north and south branches of the Southeast Municipal Court District, and the South Bay Judicial District, and has commenced construction of new facilities for the superior and municipal courts in the Santa Monica Judicial District, the Antelope Valley Judicial District, and the Long Beach Judicial District.

(e) For purposes of this section, the San Fernando Valley Statistical Area includes all land within the San Fernando Valley Statistical Area (as defined in subdivision (e) of Section 11093) as well as the City of San Fernando, the City of Hidden Hills, and the unincorporated areas of Los Angeles County located west of the City of Los Angeles, east and south of the Ventura County line, and north of a line extended westerly from the southern boundary of the San Fernando Valley Statistical Area (as defined in subdivision (c) of Section 11093).

(f) The moneys of the Robbins Courthouse Construction Fund together with any interest earned thereon shall be payable only for courtroom construction and land acquisition as authorized in subdivision (b) and, after the requirement of subdivision (b) has been met, shall be payable only for courtroom construction and land acquisition as authorized in subdivision (c) and, after the requirements of subdivisions (b) and (c) have been met, shall be payable only for courtroom construction and land acquisition as authorized in subdivision (d).

(g) Deposits to the fund shall continue through and including either (1) the 25th year after the initial calendar year in which the surcharge is collected or (2) whatever period of time is necessary to repay any borrowings made by the county to pay for construction provided for in this section, whichever time is longer.

(h) The resolution adopted by the Board of Supervisors of the County of Los Angeles on September 2, 1980, stating that the provisions of Chapter 578 of the Statutes of 1980 are necessary to the establishment of adequate courtroom facilities in the County of Los Angeles shall be deemed a resolution stating that the provisions of

this section are necessary to the establishment of adequate courtroom facilities in the county, and shall satisfy the requirements of this section.

SEC. 3. Due to unique facts and circumstances applicable to Santa Barbara County, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution. The special legislation set forth in Section 1 of this act is, therefore, necessarily applicable to only Santa Barbara County.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that (a) writs, notices, and other process issued by a state court or other competent authority are served in the most efficient manner in Santa Barbara County and (b) courthouse construction in Los Angeles County proceed in an orderly fashion without delay, it is necessary that this act take effect immediately.

CHAPTER 1084

An act to amend, repeal, and add Sections 25163, 25168.1, and 25169.1 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 25163 of the Health and Safety Code is amended to read:

25163. (a) (1) Except as otherwise provided in subdivisions (b), (c), and (f), it is unlawful for any person to carry on, or engage in, the transportation of hazardous wastes, unless the person holds a valid registration issued by the department, and it shall be unlawful for any person to transfer custody of a hazardous waste to a transporter who does not hold a valid registration issued by the department. A person who holds a valid registration issued by the department pursuant to this section is a registered hazardous waste transporter, for purposes of this chapter. Any registration issued by the department to a transporter of hazardous waste is not transferable from the person to whom it was issued to any other person.

(2) Any person who transports hazardous waste in a vehicle shall have a valid registration issued by the department in his or her possession while transporting the hazardous waste. The registration certificate shall be shown upon demand to any representative of the department, officer of the Department of the California Highway

Patrol, any local health officer, or any public officer designated by the department. Any person registered pursuant to this section may obtain additional copies of the registration from the department upon the payment of a fee of two dollars ($2) for each copy requested, in accordance with Section 12196 of the Government Code.

(3) Commencing January 1, 1986, the hazardous waste information required and collected for registration pursuant to this subdivision shall be recorded and maintained in the management information system operated by the Department of the California Highway Patrol.

(b) Persons transporting only septic tank, cesspool, seepage pit, or chemical toilet waste that does not contain a hazardous waste originating from other than the body of a human or animal and who hold an unrevoked registration issued by the health officer or the health officer's authorized representative pursuant to Chapter 6 (commencing with Section 25000) are exempt from the requirements of subdivision (a).

(c) Persons transporting hazardous wastes to a permitted hazardous waste facility for transfer, treatment, recycling, or disposal, which wastes do not exceed a total volume of five gallons or do not exceed a total weight of 50 pounds, are exempt from the requirements of subdivisions (a) and (e) and from the requirements of Section 25160 concerning possession of the manifest while transporting hazardous waste, upon meeting all of the following conditions:

(1) The hazardous wastes are transported in closed containers and packed in a manner that prevents the containers from tipping, spilling, or breaking during the transporting.

(2) Different hazardous waste materials are not mixed within a container during the transporting.

(3) If the hazardous waste is extremely hazardous waste or acutely hazardous waste, the extremely hazardous waste or acutely hazardous waste was not generated in the course of any business, and is not more than 2.2 pounds.

(4) The person transporting the hazardous waste is the producer of that hazardous waste, and the person produces no more than 100 kilograms of hazardous waste in any month.

(5) The person transporting the hazardous waste does not accumulate more than a total of 1,000 kilograms of hazardous waste onsite at any one time.

(d) Any person registered as a hazardous waste transporter pursuant to subdivision (a) is not subject to the registration requirements of Chapter 6 (commencing with Section 25000), but shall comply with the terms, conditions, orders, and directions as the health officer or the health officer's authorized representative may deem necessary for the protection of human health and comfort, and shall otherwise comply with the requirements for statements as provided in Section 25007. Violations of those requirements of

Section 25007 shall be punished as provided in Section 25010. Proof of registration pursuant to subdivision (a) shall be submitted by mail or in person to the local health officer in the city or county in which the registered hazardous waste transporter will be conducting the activities described in Section 25001.

(e) It is unlawful for any person to transport hazardous waste in any truck, trailer, semitrailer, vacuum tank, or cargo tank not inspected by the Department of the California Highway Patrol or to transport hazardous waste in any container, other than a container packaged pursuant to United States Department of Transportation regulations, which has not been inspected by the Department of the California Highway Patrol, or in a rolloff bin which has not been inspected, certified, and maintained in compliance with subdivisions (b) and (c) of Section 25169.1.

(f) Any person authorized to collect solid waste, as defined in Section 40191 of the Public Resources Code, who unknowingly transports hazardous waste to a solid waste facility, as defined in Section 40194 of the Public Resources Code, incidental to the collection of solid waste is not subject to the provisions of subdivisions (a) and (e).

(g) This section shall remain in effect only until January 1, 1995, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1995, deletes or extends that date.

SEC. 2. Section 25163 is added to the Health and Safety Code, to read:

25163. (a) (1) Except as otherwise provided in subdivisions (b), (c), and (f), it is unlawful for any person to carry on, or engage in, the transportation of hazardous wastes, unless the person holds a valid registration issued by the department, and it shall be unlawful for any person to transfer custody of a hazardous waste to a transporter who does not hold a valid registration issued by the department. A person who holds a valid registration issued by the department pursuant to this section is a registered hazardous waste transporter, for purposes of this chapter. Any registration issued by the department to a transporter of hazardous waste is not transferable from the person to whom it was issued to any other person.

(2) Any person who transports hazardous waste in a vehicle shall have a valid registration issued by the department in his or her possession while transporting the hazardous waste. The registration certificate shall be shown upon demand to any representative of the department, officer of the Department of the California Highway Patrol, any local health officer, or any public officer designated by the department. Any person registered pursuant to this section may obtain additional copies of the registration from the department upon the payment of a fee of two dollars ($2) for each copy requested, in accordance with Section 12196 of the Government Code.

(3) The hazardous waste information required and collected for

registration pursuant to this subdivision shall be recorded and maintained in the management information system operated by the Department of the California Highway Patrol.

(b) Persons transporting only septic tank, cesspool, seepage pit, or chemical toilet waste that does not contain a hazardous waste originating from other than the body of a human or animal and who hold an unrevoked registration issued by the health officer or the health officer's authorized representative pursuant to Chapter 6 (commencing with Section 25000) are exempt from the requirements of subdivision (a).

(c) Persons transporting hazardous wastes to a permitted hazardous waste facility for transfer, treatment, recycling, or disposal, which wastes do not exceed a total volume of five gallons or do not exceed a total weight of 50 pounds, are exempt from the requirements of subdivisions (a) and (e) and from the requirements of Section 25160 concerning possession of the manifest while transporting hazardous waste, upon meeting all of the following conditions:

(1) The hazardous wastes are transported in closed containers and packed in a manner that prevents the containers from tipping, spilling, or breaking during the transporting.

(2) Different hazardous waste materials are not mixed within a container during the transporting.

(3) If the hazardous waste is extremely hazardous waste or acutely hazardous waste, the extremely hazardous waste or acutely hazardous waste was not generated in the course of any business, and is not more than 2.2 pounds.

(4) The person transporting the hazardous waste is the producer of that hazardous waste, and the person produces no more than 100 kilograms of hazardous waste in any month.

(5) The person transporting the hazardous waste does not accumulate more than a total of 1,000 kilograms of hazardous waste onsite at any one time.

(d) Any person registered as a hazardous waste transporter pursuant to subdivision (a) is not subject to the registration requirements of Chapter 6 (commencing with Section 25000), but shall comply with the terms, conditions, orders, and directions as the health officer or the health officer's authorized representative may deem necessary for the protection of human health and comfort, and shall otherwise comply with the requirements for statements as provided in Section 25007. Violations of those requirements of Section 25007 shall be punished as provided in Section 25010. Proof of registration pursuant to subdivision (a) shall be submitted by mail or in person to the local health officer in the city or county in which the registered hazardous waste transporter will be conducting the activities described in Section 25001.

(e) It is unlawful for any person to transport hazardous waste in any truck, trailer, semitrailer, vacuum tank, or cargo tank not inspected by the Department of the California Highway Patrol or to

transport hazardous waste in any container, other than a container packaged pursuant to United States Department of Transportation regulations, which has not been inspected by the Department of the California Highway Patrol.

(f) Any person authorized to collect solid waste, as defined in Section 40191 of the Public Resources Code, who unknowingly transports hazardous waste to a solid waste facility, as defined in Section 40194 of the Public Resources Code, incidental to the collection of solid waste is not subject to the provisions of subdivisions (a) and (e).

(g) This section shall become operative January 1, 1995.

SEC. 3. Section 25168.1 of the Health and Safety Code is amended to read:

25168.1. (a) The department shall adopt regulations for containers used to transport hazardous wastes not subject to the federal regulations contained in Title 49 of the Code of Federal Regulations. The Department of the California Highway Patrol shall conduct an annual inspection of every truck, trailer, semitrailer, vacuum tank, cargo tank, or container, except for any rolloff bin inspected in accordance with subdivision (b) of Section 25169.1, used by registered waste transporters to transport hazardous waste on the highways, and every related maintenance facility or terminal and any records of registered waste transporters relating to vehicle maintenance and drivers' hours of service. The inspection shall be designed to determine if each vehicle and operation thereof complies with the Vehicle Code and with regulations adopted by the Department of the California Highway Patrol under subdivisions (a) and (b) of Section 34501 of the Vehicle Code, and by the department for containers used to transport hazardous waste. The Department of the California Highway Patrol shall determine whether the construction, design, equipment, and safety features of every such truck, trailer, semitrailer, vacuum tank, cargo tank, or container are in compliance with the standards which the department determines are necessary for the safe transportation of hazardous waste.

(b) This section shall remain in effect only until January 1, 1995, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1995, deletes or extends that date.

SEC. 4. Section 25168.1 is added to the Health and Safety Code, to read:

25168.1. (a) The department shall adopt regulations for containers used to transport hazardous wastes not covered or packaged as required by federal regulations contained in Title 49 of the Code of Federal Regulations. The Department of the California Highway Patrol shall conduct an annual inspection of every truck, trailer, semitrailer, vacuum tank, cargo tank, or container used by registered waste transporters to transport hazardous waste on the highways, and every related maintenance facility or terminal and any records of registered waste transporters relating to vehicle maintenance and drivers' hours of service. The inspection shall be

designed to determine if each vehicle and operation thereof complies with the Vehicle Code and with regulations adopted by the Department of the California Highway Patrol under subdivisions (a) and (b) of Section 34501 of the Vehicle Code, and by the department for containers used to transport hazardous waste. The Department of the California Highway Patrol shall determine whether the construction, design, equipment, and safety features of every such truck, trailer, semitrailer, vacuum tank, cargo tank, or container are in compliance with the standards which the department determines are necessary for the safe transportation of hazardous waste.

(b) This section shall become operative January 1, 1995.

SEC. 5. Section 25169.1 of the Health and Safety Code is amended to read:

25169.1. (a) The Department of the California Highway Patrol shall inspect every truck, trailer, semitrailer, vacuum tank, cargo tank, or container which is not a rolloff bin subject to subdivision (b), used to transport hazardous waste on the highways at least once a year to ascertain whether its construction, design, equipment and safety features comply with the regulations promulgated by the department pursuant to Section 25168.1.

(b) Upon receipt of a properly completed application for a specified number of rolloff bins and payment of the required fee, in accordance with Sections 25168.4, 25168.5, and 25168.6, the department shall issue a certificate of compliance to a hazardous waste transporter for each rolloff bin applied for under subdivision (c).

The department shall determine the size, shape, color, and design of the certificate of compliance issued pursuant to this subdivision, which shall be distinctly different in size, shape, color, and design from the certificates of compliance affixed by the Department of the California Highway Patrol.

(c) A hazardous waste transporter may apply, in writing, to the department for authorization to annually inspect and self-certify rolloff bins owned by the hazardous waste transporter, if all of the following requirements are met:

(1) The rolloff bin was inspected by the Department of the California Highway Patrol before it was placed into service.

(2) The rolloff bins are used only to transport hazardous waste, except extremely hazardous waste, in a solid physical state that is not required to be labeled or placarded by the United States Department of Transportation. The department shall adopt, by regulation, a list of specific hazardous wastes which shall not be transported in rolloff bins.

(3) The hazardous waste transporter has a current satisfactory rating from the Department of the California Highway Patrol's terminal inspection for the three immediately consecutive preceding years.

(4) The department issues a letter of acknowledgment indicating approval for the hazardous waste transporter to inspect and certify

the transporter's rolloff bins.

(5) The hazardous waste transporter affixes the certificate of compliance issued pursuant to subdivision (b) to the rolloff bin in a position normally visible during transportation.

(6) The hazardous waste transporter either personally inspects and self-certifies each rolloff bin or designates a specific employee to inspect and self-certify each rolloff bin.

(7) The hazardous waste transporter maintains an ability to respond to damages resulting from the operation of that business by obtaining insurance coverage in the minimum amount of one million five hundred thousand dollars ($1,500,000) of combined single limit coverage.

(8) A hazardous waste transporter who is issued a certificate of compliance pursuant to subdivision (b) shall do all of the following:

(A) The hazardous waste transporter shall document, on a form provided by the department, the inspection of each rolloff bin, noting defects and repair measures taken, and shall provide to the department a record of the certificate of compliance issued to each rolloff bin. The document shall contain a list of the inspection items specified in subparagraph (B) and the identification number of the rolloff bin, the date of inspection, the inspector's signature, the date of certification, and certificate of compliance number. The hazardous waste transporter shall retain a copy of the inspection records for each rolloff bin for three years from the date of certification, except the hazardous waste transporter shall retain these inspection records for longer than three years during the course of any unresolved enforcement action regarding hazardous waste transportation, or as requested by the department.

(B) The hazardous waste transporter shall certify that each rolloff bin has been inspected visually for all of the following and are free from all of the following defects:

(i) Cracks, holes, and broken welds.

(ii) Defects in doors and door hinges, gaskets, seals, and latching devices.

(iii) Defects in loading and securement devices of the rolloff bin.

(iv) Any other condition, including leakage, corrosion, or dents which render it unsafe for transportation service.

(C) The hazardous waste transporter shall establish an effective ongoing maintenance program that will ensure that rolloff bins are not transported while loaded in a condition less than that required for certification. The hazardous waste transporter shall retain maintenance records for each rolloff bin for a period of three years from the date the maintenance was performed, except the hazardous waste transporter shall retain these maintenance records or longer than three years during the course of any unresolved enforcement action regarding hazardous waste transportation or as requested by the department.

(d) Authorized employees of the Department of the California Highway Patrol or the department shall make random inspections of

at least 25 percent of all rolloff bins in the state used to transport hazardous waste on both public and private property, and shall inspect maintenance and inspection records of rolloff bins certified pursuant to subdivision (b).

(e) In addition to the penalties specified in subdivision (f), any person who violates this section shall be punished as prescribed in Article 8 (commencing with Section 25180).

(f) A person who violates this section is subject to the following actions:

(1) For the first violation, the person is subject to a civil penalty of five hundred dollars ($500) for each rolloff bin determined by the Department of the California Highway Patrol or the department to be out of compliance with the requirements of this article.

(2) For the second violation, the person is subject to a civil penalty of one thousand dollars ($1,000) for each rolloff bin determined by the Department of the California Highway Patrol or the department to be out of compliance with the requirements of this article, and the department shall immediately revoke the hazardous waste transporter's authorization to inspect and self-certify the transporter's rolloff bins, pursuant to subdivisions (b) and (c), for a period of not less than one year. The department may deny any future application that the hazardous waste transporter submits to inspect and self-certify the transporter's rolloff bins if the transporter's authorization is revoked pursuant to this section.

(3) Notwithstanding Sections 25186.1 and 25186.2, and subdivision (h), the department may immediately suspend, for a period of one year, the registration of a hazardous waste transporter, who the Department of the California Highway Patrol or the department determines is willfully violating, and is substantially out of compliance with, the requirements of this section.

(4) Any authorized employee of the Department of the California Highway Patrol or the department may remove the certificate of compliance on any rolloff bin certified pursuant to subdivision (b) which fails an inspection.

(g) Notwithstanding Section 25186.2, the department shall deny, suspend, or revoke the registration of any hazardous waste transporter pursuant to Section 25186.1 to prevent or mitigate an imminent and substantial danger to the public health or safety or the environment.

(h) No person shall transport hazardous waste on streets and highways within the State of California, unless the truck, trailer, semitrailer, vacuum tank, cargo tank, or container in which the hazardous waste is being transported displays a certificate of compliance, issued by the department, showing that the vehicle has been inspected within the last 12 months.

(i) For the purposes of this section, the following definitions shall apply:

(1) "Container" means any reusable portable tank or bin which has a capacity greater than 118.9 U.S. gallons (450 liters) and meets

both of the following requirements:

(A) The container bears a permanently affixed, unique identification number or, if a container does not bear an identification number, the hazardous waste hauler affixes a permanent, unique identification number to the container.

(B) The number specified in subparagraph (A) shall be painted in characters not less than 1 inch in height or die stamped in characters not less than $\frac{3}{16}$ inch in height and shall be maintained in a legible condition.

(2) "Rolloff bin" means any box-type container used to store and transport hazardous waste, except extremely hazardous waste, that are in a solid physical state and are not subject to the labeling or placarding requirements specified in Title 49 of the Code of Federal Regulations. "Rolloff bin" does not include any tank, or any other packaging, built to a specification or exemption adopted by the United States Department of Transportation.

(3) "Solid physical state" means solid physical hazardous waste in which free liquids are not present.

(4) "Free liquids" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure. Free liquids are not present when a 100 milliliter representative sample of the hazardous waste can be completely retained in a standard 400 micron conical paint filter for five minutes without loss of any portion of the waste from the bottom of the filter, or if the waste meets an equivalent test approved by the department.

(j) This section shall remain in effect only until January 1, 1995, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1995, deletes or extends that date.

SEC. 6. Section 25169.1 is added to the Health and Safety Code, to read:

25169.1. (a) The Department of the California Highway Patrol shall inspect every truck, trailer, semitrailer, vacuum tank, cargo tank, or container used to transport hazardous waste on the highways at least once a year to ascertain whether its construction, design, equipment, and safety features comply with the regulations promulgated by the department pursuant to Section 25168.1.

(b) No person shall transport hazardous waste on streets and highways within the State of California, unless the truck, trailer, semitrailer, vacuum tank, cargo tank, or container in which the hazardous waste is being transported displays a certificate of compliance, issued by the department, showing that the vehicle has been inspected within the last 12 months.

(c) For the purposes of this section, "container" means any reusable portable tank or bin which has a capacity greater than 118.9 U.S. gallons (450 liters) and meets both of the following requirements:

(1) The container bears a permanently affixed, unique identification number or, if a container does not bear an identification number, the hazardous waste transporter affixes a

permanent, unique identification number to the container.

(2) The number specified in paragraph (1) shall be painted in characters not less than 1 inch in height or die stamped in characters not less than 3/16 inch in height and shall be maintained in a legible condition.

(d) This section shall become operative January 1, 1995.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1085

An act to amend Section 40061 of the Public Resources Code, relating to solid waste.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 40061 of the Public Resources Code is amended to read:

40061. (a) Notwithstanding Section 40059, every local agency which does not directly charge residential households a fee for the collection, transportation, and disposal of solid waste and every local agency which directly charges residential customers a fee which represents less than 90 percent of the average cost of collecting, transporting, and disposing of residential solid waste shall, at least once every three months, arrange to inform all residential households of all of the following:

(1) The average monthly volume of solid waste produced by each residential household.

(2) The total estimated monthly cost to the local agency to collect, transport, and dispose of all solid waste produced by residential households.

(3) The average monthly cost to the local agency to collect, transport, and dispose of solid waste produced by each residential household.

(b) For the purposes of this section, "residential household" means those single and multifamily residential units which are not charged a periodic fee for the collection, transportation, and disposal

of solid waste or which are assessed a periodic fee which represents less than 90 percent of the local agency's total cost of providing these services.

(c) The notification provided under subdivision (a) may, not more than twice in any calendar year, be made by publication in a newspaper of general circulation in the county in which the local agency is located.

(d) Unless notification is made by publication, when possible, the notification provided under subdivision (a) shall be distributed by each local agency to residential households in a manner that results in no distribution costs to the local agency in excess of distribution costs otherwise incurred for other purposes.

CHAPTER 1086

An act to amend Sections 6300, 6307, and 6308 of the Water Code, relating to water, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 6300 of the Water Code is amended to read:

6300. (a) The application for a new dam or reservoir or enlargement shall set forth the estimated cost, as defined in this article, of the dam or reservoir or enlargement and shall be accompanied by a filing fee based upon the estimated cost and according to the following schedule:

(1) For the first three hundred thousand dollars ($300,000), a fee of 3 percent of the estimated cost.

(2) For the next seven hundred thousand dollars ($700,000), a fee of 2 percent.

(3) For the next one million dollars ($1,000,000), a fee of 1½ percent.

(4) For the next one million dollars ($1,000,000), a fee of 1¼ percent.

(5) For the next two million dollars ($2,000,000), a fee of 1 percent.

(6) For the next two million dollars ($2,000,000), a fee of three-fourths of 1 percent.

(7) For all costs in excess of seven million dollars ($7,000,000), a fee of one-half of 1 percent.

(b) In no case, however, shall the minimum fee be less than three hundred dollars ($300).

SEC. 2. Section 6307 of the Water Code is amended to read:

6307. (a) An annual fee shall be paid on or before December 31,

1970, and on or before December 31 of each succeeding year, based upon the height of the dam, including all enlargements thereto, substantially completed by or in operation on June 30, 1970, and on June 30 each succeeding year. The annual fee shall be one hundred twenty-five dollars ($125) plus twelve dollars ($12) per foot of height of the dam, and shall be increased pursuant to the following schedule:

Calendar year	Fee Per Dam	Fee Per Foot of Height
1993	$150	$16
1995	$175	$20
1997	$200	$24

(b) For purposes of this section, height of the dam means the vertical distance, to the nearest foot, from the natural bed of the stream or watercourse at the downstream toe of the barrier, as determined by the department, or from the lowest elevation of the outside limit of the barrier, as determined by the department, if it is not across a stream channel or watercourse, to the maximum possible water storage elevation.

SEC. 3. Section 6308 of the Water Code is amended to read:

6308. All fees and other charges collected under this part shall be paid into the State Treasury immediately after the department has certified as to the correctness of the amounts received and made any adjustments necessary, and shall be used by the department, upon appropriation, to carry out this part.

SEC. 4. The sum of one million one hundred thousand dollars ($1,100,000) is hereby appropriated from the General Fund to the Department of Water Resources for 1991–92 fiscal year to carry out Part 1 (commencing the Section 6000) of Division 3 of the Water Code.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect the public health and safety at the earliest possible opportunity, it is necessary that this act take effect immediately.

CHAPTER 1087

An act to amend Section 23186 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 23186 of the Revenue and Taxation Code is amended to read:

23186. (a) For income years ending in 1987, the rate of tax on banks and financial corporations shall be a percentage equal to the percentage of the total amount of net income derived from or attributable to sources in this state, of every corporation taxable under Article 2 (commencing with Section 23151) of this chapter, other than public utilities as defined in the Public Utilities Act, for the next preceding calendar year or fiscal years ended during that calendar year, required to be paid to this state as franchise taxes according to or measured by net income, and required to be paid to this state or its political subdivisions by the corporations as personal property taxes and business license taxes during the preceding calendar year or fiscal years ended in that calendar year; provided, however, that the rate of tax shall not exceed 11.7 percent. The percentage of the net income of every corporation taxable under Article 2 (commencing with Section 23151) of this chapter, other than public utilities as defined in the Public Utilities Act, required to be paid to this state or its political subdivisions in personal property taxes and business license taxes shall be determined by ascertaining the ratio which the total amount of the personal property taxes and business license taxes, less the rate prescribed in Section 23151, bears to the total amount of net income of the corporations derived from or attributable to sources in California, increased by the amount of the personal property taxes and business license taxes; provided, however, that if any corporation sustains a net loss derived from or attributable to sources in California the personal property taxes and business license taxes required to be paid by the corporation to this state or its political subdivisions during the preceding calendar year or fiscal years ended during the calendar year shall be considered for the purpose of determining the ratio only to the extent which the personal property taxes and business license taxes exceed the net loss derived from or attributable to sources in California. Total amounts of net income shall be determined without regard to deductions attributable to carryover or carryback of net operating losses (if any).

(b) For income years ending in 1988 and before December 31, 1995, the rate of tax on banks and financial corporations shall be the lesser of 11.7 percent or a percentage equal to the sum of:

(1) The rate of tax specified in Section 23151 (relating to tax on general corporations), and

(2) The "in-lieu" rate, as defined by subdivision (c) or (e).

(c) For income years ending before 1992, the "in-lieu" rate is defined as a fraction:

(1) The numerator of which is the total amount required to be paid to this state and its political subdivisions as personal property taxes and business license taxes; and

(2) The denominator of which is the total amount of net income derived from or attributable to sources in this state, by every corporation taxable under Article 2 (commencing with Section 23151) of this chapter, other than public utilities as defined in the Public Utilities Act, for the year preceding the income year.

(3) For purposes of computing the "in-lieu" rate:

(A) Personal property and business license taxes paid by corporations whose net income is a loss for the year shall be included in the numerator only to the extent that the amount of personal property and business license taxes exceed that loss.

(B) After applying subparagraph (A), the numerator shall be reduced by the amount of tax savings that are attributable to the deduction of those taxes under this part.

(C) The denominator shall be increased to the extent that personal property and business license taxes paid were deducted in arriving at net income, and to the extent of any net operating loss deductions.

(d) For income years ending in 1982 and before 1992, for the purposes of subdivision (c), the total amount of personal property taxes and business license taxes required to be paid during the income year shall be based on a statistical sample by the Franchise Tax Board, consisting of all of the following:

(1) Every corporation with a net income determined without regard to deductions attributable to carryover or carryback of net operating losses (if any) of more than five million dollars ($5,000,000) for the income year.

(2) Every corporation required to pay one hundred thousand dollars ($100,000) or more of personal property tax or business license tax, or a combination thereof, during the income year.

(3) Two percent or more of all other corporations on a random basis.

For the purposes of this subdivision, "corporation" means a corporation taxable under Article 2 (commencing with Section 23151), other than public utilities as defined in the Public Utilities Act.

(e) For income years ending after 1991, the "in-lieu" rate is defined as follows:

(1) For income years ending after 1991 and before December 1, 1995, the "in-lieu" rate is defined as a fraction which is multiplied by an adjustment factor equal to 0.51535. The fraction is as follows:

(A) The numerator is the total amount required to be paid to the

political subdivisions of this state as personal property taxes and business license taxes, decreased by the product of the franchise tax rate and the total amount required to be paid to the political subdivisions of this state as personal property taxes and business license taxes.

(i) Personal property taxes required to be paid to the political subdivisions of this state shall be the statewide locally assessed personal property taxes reported by the State Board of Equalization for the state's fiscal year ending in the calendar year prior to the beginning of the bank tax rate year.

(ii) Business license taxes required to be paid to the political subdivisions of this state shall be the statewide locally assessed business license taxes reported by the Controller's office for the state's fiscal year ending in two calendar years prior to the beginning of the bank tax rate year.

(B) The denominator is the total amount of net income derived from or attributable to sources in this state, by every corporation taxable under Article 2 (commencing with Section 23151), other than public utilities, as defined in the Public Utilities Act, for income years ending in three calendar years prior to the beginning of the bank tax rate year, determined pursuant to information compiled from tax returns filed with the Franchise Tax Board, increased by the total amount required to be paid to the political subdivisions of this state as personal property taxes and business license taxes.

(2) In no case shall the "in-lieu" rate calculated pursuant to paragraph (1) be less than 1.3 percent.

(f) For income years ending on or after December 31, 1995, the rate shall be the rate of tax specified in Section 23151, plus 2 percent.

(g) For the purpose of verifying local business license taxes reported by corporations taxable under Article 2 (commencing with Section 23151), other than public utilities as defined in the Public Utilities Act, the Franchise Tax Board is authorized to receive source information listings directly from the cities as to the amount of business license taxes paid and the date of payment for each taxpayer subject to the business license tax, notwithstanding any city ordinance prohibiting that disclosure.

(h) If, after notice and demand by the Franchise Tax Board, a taxpayer declines or refuses to furnish the Franchise Tax Board with information regarding personal property taxes, business license taxes, or net income required to determine the rate of tax on banks and financial corporations as provided by this section, then in that event, unless the failure is due to reasonable cause, the Franchise Tax Board shall disallow any deductions claimed by a taxpayer for the applicable period for personal property taxes and business license taxes and a penalty of five thousand dollars ($5,000) shall be assessed.

(i) For purposes of this section, "bank tax rate year" means the calendar year in which the taxpayer's income year ends.

SEC. 2. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 1088

An act to amend Sections 46500 and 46501 of the Public Resources Code, relating to landfills.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 46500 of the Public Resources Code is amended to read:

46500. (a) The board shall annually grant or allocate funds from the account to the state water board, as determined necessary by the board and consistent with legislative direction, to assist in the support of solid waste landfill permit inspection and enforcement programs related to landfills carried out by regional water boards pursuant to Division 7 (commencing with Section 13000) of the Water Code.

(b) The board shall apportion the funds generally to reflect population, number of solid waste landfills, and the weight of solid waste disposed of within a regional water board's jurisdiction.

SEC. 2. Section 46501 of the Public Resources Code is amended to read:

46501. The state water board shall expend its annual apportionment made pursuant to Section 46500 exclusively for the purposes of the apportionment. The state water board shall expend its annual apportionment in accordance with an interagency agreement with the board.

CHAPTER 1089

An act to amend Sections 1725 and 1747.8 of the Civil Code, relating to consumers, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 1725 of the Civil Code is amended to read:

1725. (a) Unless permitted under subdivision (c), no person accepting a negotiable instrument as payment in full or in part for goods or services sold or leased at retail shall do any of the following:

(1) Require the person paying with a negotiable instrument to provide a credit card as a condition of acceptance of the negotiable instrument, or record the number of the credit card.

(2) Require, as a condition of acceptance of the negotiable instrument, or cause the person paying with a negotiable instrument to sign a statement agreeing to allow his or her credit card to be charged to cover the negotiable instrument if returned as no good.

(3) Record a credit card number in connection with any part of the transaction described in this subdivision.

(4) Contact a credit card issuer to determine if the amount of any credit available to the person paying with a negotiable instrument will cover the amount of the negotiable instrument.

(b) For the purposes of this section, the following terms have the following meanings:

(1) "Check guarantee card" means a card issued by a financial institution, evidencing an agreement under which the financial institution will not dishonor a check drawn upon itself, under the terms and conditions of the agreement.

(2) "Credit card" has the meaning specified in Section 1747.02, and does not include a check guarantee card or a card that is both a credit card and a check guarantee card.

(3) "Negotiable instrument" has the meaning specified in Section 3104 of the Commercial Code.

(4) "Retail" means a transaction involving the sale or lease of goods or services or both, between an individual, corporation, or other entity regularly engaged in business and a consumer, for use by the consumer and not for resale.

(c) This section does not prohibit any person from doing any of the following:

(1) Requiring the production of reasonable forms of positive identification, other than a credit card, which may include a driver's license or a California state identification card, as a condition of acceptance of a negotiable instrument.

(2) Requesting, but not requiring, a purchaser to voluntarily display a credit card as an indicia of creditworthiness or financial responsibility, or as an additional identification, provided the only information concerning the credit card which is recorded is the type of credit card displayed, the issuer of the card, and the expiration date of the card. All retailers that request the display of a credit card pursuant to this paragraph shall inform the customer, by either of the following methods, that displaying the credit card is not a requirement for check writing:

(A) By posting the following notice in a conspicuous location in the unobstructed view of the public within the premises where the check is being written, clearly and legibly: "Check writing ID: credit card may be requested but not required for purchases."

(B) By training and requiring the sales clerks or retail employees requesting the credit card to inform all check writing customers that they are not required to display a credit card to write a check.

(3) Requesting production of, or recording, a credit card number as a condition for cashing a negotiable instrument that is being used solely to receive cash back from the person.

(4) Requesting, receiving, or recording a credit card number in lieu of requiring a deposit to secure payment in event of default, loss, damage, or other occurrence.

(5) Requiring, verifying, and recording the purchaser's name, address, and telephone number.

(6) Requesting or recording a credit card number on a negotiable instrument used to make a payment on that credit card account.

(d) This section does not require acceptance of a negotiable instrument whether or not a credit card is presented.

(e) Any person who violates this section is subject to a civil penalty not to exceed two hundred fifty dollars ($250) for a first violation, and to a civil penalty not to exceed one thousand dollars ($1,000) for a second or subsequent violation, to be assessed and collected in a civil action brought by the person paying with a negotiable instrument, by the Attorney General, or by the district attorney or city attorney of the county or city in which the violation occurred. However, no civil penalty shall be assessed for a violation of this section if the defendant shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error made notwithstanding the defendant's maintenance of procedures reasonably adopted to avoid such an error. When collected, the civil penalty shall be payable, as appropriate, to the person paying with a negotiable instrument who brought the action or to the general fund of whichever governmental entity brought the action to assess the civil penalty.

(f) The Attorney General, or any district attorney or city attorney within his or her respective jurisdiction, may bring an action in the superior court in the name of the people of the State of California to enjoin violation of subdivision (a) and, upon notice to the defendant of not less than five days, to temporarily restrain and enjoin the violation. If it appears to the satisfaction of the court that the defendant has, in fact, violated subdivision (a), the court may issue an injunction restraining further violations, without requiring proof that any person has been damaged by the violation. In these proceedings, if the court finds that the defendant has violated subdivision (a), the court may direct the defendant to pay any or all costs incurred by the Attorney General, district attorney, or city attorney in seeking or obtaining injunctive relief pursuant to this subdivision.

(g) Actions for collection of civil penalties under subdivision (e) and for injunctive relief under subdivision (f) may be consolidated.

SEC. 2. Section 1747.8 of the Civil Code is amended to read:

1747.8. (a) Except as provided in subdivision (c), no person, firm, partnership, association, or corporation which accepts credit cards for the transaction of business shall do any of the following:

(1) Request, or require as a condition to accepting the credit card as payment in full or in part for goods or services, the cardholder to write any personal identification information upon the credit card transaction form or otherwise.

(2) Request, or require as a condition to accepting the credit card as payment in full or in part for goods or services, the cardholder to provide personal identification information, which the person, firm, partnership, association, or corporation accepting the credit card writes, causes to be written, or otherwise records upon the credit card transaction form or otherwise.

(3) Utilize, in any credit card transaction, a credit card form which contains preprinted spaces specifically designated for filling in any personal identification information of the cardholder.

(b) For purposes of this section "personal identification information," means information concerning the cardholder, other than information set forth on the credit card, and including, but not limited to, the cardholder's address and telephone number.

(c) Subdivision (a) does not apply in the following instances:

(1) When the credit card is being used as a deposit to secure payment in the event of default, loss, damage, or other similar occurrence.

(2) Cash advance transactions.

(3) When the person, firm, partnership, association, or corporation accepting the credit card is contractually obligated to provide personal identification information in order to complete the credit card transaction.

(4) When personal identification information is required for a special purpose incidental but related to the individual credit card transaction, including, but not limited to, information relating to shipping, delivery, servicing, or installation of the purchased merchandise, or for special orders.

(d) This section does not prohibit any person, firm, partnership, association, or corporation from requiring the cardholder, as a condition to accepting the credit card as payment in full or in part for goods or services, to provide reasonable forms of positive identification, which may include a driver's license or a California state identification card, provided that none of the information contained thereon is written or recorded on the credit card transaction form or otherwise.

(e) Any person who violates this section shall be subject to a civil penalty not to exceed two hundred fifty dollars ($250) for the first violation and one thousand dollars ($1,000) for each subsequent violation, to be assessed and collected in a civil action brought by the person paying with a credit card, by the Attorney General, or by the district attorney or city attorney of the county or city in which the violation occurred. However, no civil penalty shall be assessed for a violation of this section if the defendant shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error made notwithstanding the defendant's maintenance of procedures reasonably adopted to avoid such an error. When collected, the civil penalty shall be payable, as appropriate, to the person paying with a credit card who brought the action, or to the general fund of whichever governmental entity

brought the action to assess the civil penalty.

(f) The Attorney General, or any district attorney or city attorney within his or her respective jurisdiction, may bring an action in the superior court in the name of the people of the State of California to enjoin violation of subdivision (a) and, upon notice to the defendant of not less than five days, to temporarily restrain and enjoin the violation. If it appears to the satisfaction of the court that the defendant has, in fact, violated subdivision (a), the court may issue an injunction restraining further violations, without requiring proof that any person has been damaged by the violation. In these proceedings, if the court finds that the defendant has violated subdivision (a), the court may direct the defendant to pay any or all costs incurred by the Attorney General, district attorney, or city attorney in seeking or obtaining injunctive relief pursuant to this subdivision.

(g) Actions for collection of civil penalties under subdivision (e) and for injunctive relief under subdivision (f) may be consolidated.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

It is imperative to provide clarification as to the intent of existing California law, to allow retailers to be able to effectively comply with the law's provisions and avoid undue civil penalties. It is therefore necessary that this act take effect immediately.

CHAPTER 1090

An act to amend Section 2475 of the Civil Code, to amend Sections 484.330, 585.5, 586, 685.030, 1005, 1094.5, 1094.6, 1952, 1952.2, 1952.3, 2024, 2025, 2030, 2031, and 2033 of the Code of Civil Procedure, to amend Section 1560 of the Evidence Code, and to amend Sections 26849.1, 26883, 29390, 69504.6, 69844.5, 69845.5, and 70048 of the Government Code, relating to courts.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 2475 of the Civil Code is amended to read:

2475. The following statutory form of power of attorney is legally sufficient when the requirements of Section 2476 are satisfied:

UNIFORM STATUTORY FORM POWER OF ATTORNEY

(California Civil Code §2475)

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE UNIFORM STATUTORY FORM POWER OF ATTORNEY ACT (CALIFORNIA CIVIL CODE SECTIONS 2475–2499.5, INCLUSIVE). IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

I_____
(your name and address)

appoint_____
(name and address of the person appointed, or of each person appointed if you want to designate more than one)

as my agent (attorney-in-fact) to act for me in any lawful way with respect to the following initialed subjects:

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS.

TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

INITIAL

____ (A) Real property transactions.
____ (B) Tangible personal property transactions.
____ (C) Stock and bond transactions.
____ (D) Commodity and option transactions.
____ (E) Banking and other financial institution transactions.
____ (F) Business operating transactions.
____ (G) Insurance and annuity transactions.
____ (H) Estate, trust, and other beneficiary transactions.
____ (I) Claims and litigation.
____ (J) Personal and family maintenance.

INITIAL ·

____ (K) Benefits from social security, medicare, medicaid, or other governmental programs, or civil or military service.

____ (L) Retirement plan transactions.

____ (M) Tax matters.

____ (N) ALL OF THE POWERS LISTED ABOVE.

YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (N).

SPECIAL INSTRUCTIONS:

ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED.

This power of attorney will continue to be effective even though I become incapacitated.

STRIKE THE PRECEDING SENTENCE IF YOU DO NOT WANT THIS POWER OF ATTORNEY TO CONTINUE IF YOU BECOME INCAPACITATED.

EXERCISE OF POWER OF ATTORNEY WHERE MORE THAN ONE AGENT DESIGNATED

If I have designated more than one agent, the agents are to act_____

_____ .

IF YOU APPOINTED MORE THAN ONE AGENT AND YOU WANT EACH AGENT TO BE ABLE TO ACT ALONE WITHOUT THE OTHER AGENT JOINING, WRITE THE WORD "SEPARATELY" IN THE BLANK SPACE ABOVE. IF YOU DO NOT INSERT ANY WORD IN THE BLANK SPACE, OR IF YOU INSERT THE WORD "JOINTLY", THEN ALL OF YOUR AGENTS MUST ACT OR SIGN TOGETHER.

I agree that any third party who receives a copy of this document may act under it. Revocation of the power of attorney is not effective as to a third party until the third party has actual knowledge of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

Signed this ____ day of _____, 19 ____

_____
(your signature)

_____
(your social security number)

State of _____

County of _____

CERTIFICATE OF ACKNOWLEDGEMENT OF NOTARY PUBLIC

State of California }
County of _____ } ss

On this _____ day of _____, 19 ____ before me, _____

_____, personally appeared
(name of notary public)

_____, personally
(name of principal)

known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he or she executed it.

NOTARY SEAL

_____
(signature of notary public)

BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT.

SEC. 2. Section 484.330 of the Code of Civil Procedure is amended to read:

484.330. No writ of attachment shall be issued under this article except after a hearing. At least 15 days prior to the hearing, the defendant shall be served with both of the following:

(a) A notice of application and hearing.

(b) A copy of the application.

SEC. 3. Section 585.5 of the Code of Civil Procedure is amended to read:

585.5. (a) Every application to enter default under subdivision (a) of Section 585 shall include, or be accompanied by, an affidavit stating facts showing that the action is or is not subject to Section 1812.10 or 2984.4 of the Civil Code or subdivision (b) of Section 395.

(b) When a default or default judgment has been entered without full compliance with Section 1812.10 or 2984.4 of the Civil Code, or subdivision (b) of Section 395, the defendant may serve and file a notice of motion to set aside the default or default judgment and for leave to defend the action in the proper court. The notice of motion shall be served and filed within 60 days after the defendant first receives notice of levy under a writ of execution, or notice of any other procedure for enforcing, the default judgment.

(c) A notice of motion to set aside a default or default judgment and for leave to defend the action in the proper court shall designate as the time for making the motion a date prescribed by subdivision (b) of Section 1005, and it shall be accompanied by an affidavit showing under oath that the action was not commenced in the proper court according to Section 1812.10 or 2984.4 of the Civil Code or subdivision (b) of Section 395. The party shall serve and file with the notice a copy of the answer, motion, or other pleading proposed to be filed in the action.

(d) Upon a finding by the court that the motion was made within the period permitted by subdivision (b) and that the action was not commenced in the proper court, it shall set aside the default or default judgment on such terms as may be just and shall allow such a party to defend the action in the proper court.

(e) Unless the plaintiff can show that the plaintiff used reasonable diligence to avoid filing the action in the improper court, upon a finding that the action was commenced in the improper court the court shall award the defendant actual damages and costs, including reasonable attorney's fees.

SEC. 4. Section 586 of the Code of Civil Procedure is amended to read:

586. In the following cases the same proceedings shall be had, and judgment shall be rendered in the same manner, as if the defendant had failed to answer:

1. If the complaint has been amended, and the defendant fails to answer it, as amended, or demur thereto, or file a notice of motion to strike, of the character specified in Section 585, within 30 days after service thereof or within the time allowed by the court.

2. If the demurrer to the complaint is overruled and a motion to strike, of the character specified in Section 585, is denied, or where only one thereof is filed, if the demurrer is overruled or the motion to strike is denied, and the defendant fails to answer the complaint within the time allowed by the court.

3. If a motion to strike, of the character specified in Section 585, is granted in whole or in part, and the defendant fails to answer the unstricken portion of the complaint within the time allowed by the court, no demurrer having been sustained or being then pending.

4. If a motion to quash service of summons or to stay or dismiss, the action has been filed or writ of mandate sought and notice thereof given, as provided in Section 418.10, and upon denial of such motion or writ, defendant fails to respond to the complaint, within the time provided in such section or as otherwise provided by law.

5. If the demurrer to the answer is sustained and the defendant fails to amend the answer within the time allowed by the court.

6. (a) If a motion to transfer pursuant to Section 396b is denied and the defendant fails to respond to the complaint within the time allowed by the court pursuant to subdivision (e) of Section 396b or within the time provided in subdivision (c).

(b) If a motion to transfer pursuant to Section 396b is granted and the defendant fails to respond to the complaint within 30 days of the mailing of notice of the filing and case number by the clerk of the court to which the action or proceeding is transferred or within the time provided in subdivision (c).

(c) If the order granting or denying a motion to transfer pursuant to Section 396a or 396b is the subject of an appeal pursuant to Section 904.2 or 904.3 in which a stay is granted or of a mandate proceeding pursuant to Section 400, the court having jurisdiction over the trial, upon application or on its own motion after such appeal or mandate proceeding becomes final or upon earlier termination of a stay, shall allow the defendant a reasonable time to respond to the complaint. Notice of the order allowing the defendant further time to respond to the complaint shall be promptly served by the party who obtained such order or by the clerk if the order is made on the court's own motion.

(d) For the purposes of this section, "to respond" means: to answer, to demur, or to move to strike.

7. If a motion to strike the answer in whole, of the character specified in Section 585, is granted without leave to amend, or if a motion to strike the answer in whole or in part, of the character specified in Section 585, is granted with leave to amend and the defendant fails to amend the answer within the time allowed by the court.

SEC. 4.5. Section 685.030 of the Code of Civil Procedure is amended to read:

685.030. (a) If a money judgment is satisfied in full pursuant to a writ under this title, interest ceases to accrue on the judgment:

(1) If the proceeds of collection are paid in a lump sum, on the

date of levy.

(2) In any other case, on the date the proceeds of sale or collection are actually received by the levying officer.

(b) If a money judgment is satisfied in full other than pursuant to a writ under this title, interest ceases to accrue on the date the judgment is satisfied in full.

(c) If a money judgment is partially satisfied pursuant to a writ under this title or is otherwise partially satisfied, interest ceases to accrue as to the part satisfied on the date the part is satisfied.

(d) For the purposes of subdivisions (b) and (c), the date a money judgment is satisfied in full or in part is the earliest of the following times:

(1) The date satisfaction is actually received by the judgment creditor.

(2) The date satisfaction is tendered to the judgment creditor or deposited in court for the judgment creditor.

(3) The date of any other performance that has the effect of satisfaction.

(e) The clerk of a municipal or justice court may enter in the Register of Actions a writ of execution on a money judgment as returned wholly satisfied when the judgment amount, as specified on the writ, is fully collected and only an interest deficit of no more than ten dollars ($10) exists, due to automation of the continual daily interest accrual calculation.

SEC. 5. Section 1005 of the Code of Civil Procedure is amended to read:

1005. (a) Written notice shall be given, as prescribed in subdivision (b), for the following motions:

(1) Notice of Application and Hearing for Writ of Attachment under Section 484.040.

(2) Notice of Application and Hearing for Claim and Delivery under Section 512.030.

(3) Notice of Hearing for Claim of Exemption under Section 706.105.

(4) Motion to Quash Summons pursuant to subdivision (b) of Section 418.10.

(5) Motion for Determination of Good Faith Settlement pursuant to Section 877.6.

(6) Hearing for Discovery of Peace Officer Personnel Records pursuant to Section 1043 of the Evidence Code.

(7) Notice of Hearing of Third-Party Claim pursuant to Section 720.320.

(8) Motion for an Order to Attend Deposition more than 150 miles from deponent's residence pursuant to paragraph (3) of subdivision (e) of Section 2025.

(9) Notice of Hearing of Application for Relief pursuant to Section 946.6 of the Government Code.

(10) Motion to Set Aside Default or Default Judgment and for Leave to Defend Actions pursuant to Section 473.5.

(11) Motion to Expunge Notice of Pendency of Action pursuant to Section 409.1.

(12) Motion to Set Aside Default and for Leave to Amend pursuant to Section 585.5.

(13) Any other proceeding under this code in which notice is required and no other time or method is prescribed by law or by court or judge.

(b) Unless otherwise ordered or specifically provided by law, all moving and supporting papers shall be served and filed at least 15 calendar days before the time appointed for the hearing. However, if the notice is served by mail, the required 15-day period of notice before the time appointed for the hearing shall be increased by five days if the place of mailing and the place of address are within the State of California, 10 days if either the place of mailing or the place of address is outside the State of California but within the United States, and 20 days if either the place of mailing or the place of address is outside the United States. Subdivision (a) of Section 1013, which extends the time within which a right may be exercised or an act may be done, does not apply to a notice of motion governed by this section. All papers opposing a motion so noticed shall be filed with the court and served on each party at least five court days, and all reply papers at least two court days before the time appointed for the hearing.

The court, or a judge thereof, may prescribe a shorter time.

SEC. 5.5. Section 1094.5 of the Code of Civil Procedure is amended to read:

1094.5. (a) Where the writ is issued for the purpose of inquiring into the validity of any final administrative order or decision made as the result of a proceeding in which by law a hearing is required to be given, evidence is required to be taken, and discretion in the determination of facts is vested in the inferior tribunal, corporation, board, or officer, the case shall be heard by the court sitting without a jury. All or part of the record of the proceedings before the inferior tribunal, corporation, board, or officer may be filed with the petition, may be filed with respondent's points and authorities, or may be ordered to be filed by the court. Except when otherwise prescribed by statute, the cost of preparing the record shall be borne by the petitioner. Where the petitioner has proceeded pursuant to Section 68511.3 of the Government Code and the Rules of Court implementing that section and where the transcript is necessary to a proper review of the administrative proceedings, the cost of preparing the transcript shall be borne by the respondent. Where the party seeking the writ has proceeded pursuant to Section 1088.5, the administrative record shall be filed as expeditiously as possible, and may be filed with the petition, or by the respondent after payment of the costs by the petitioner, where required, or as otherwise directed by the court. If the expense of preparing all or any part of the record has been borne by the prevailing party, the expense shall be taxable as costs.

(b) The inquiry in such a case shall extend to the questions whether the respondent has proceeded without, or in excess of jurisdiction; whether there was a fair trial; and whether there was any prejudicial abuse of discretion. Abuse of discretion is established if the respondent has not proceeded in the manner required by law, the order or decision is not supported by the findings, or the findings are not supported by the evidence.

(c) Where it is claimed that the findings are not supported by the evidence, in cases in which the court is authorized by law to exercise its independent judgment on the evidence, abuse of discretion is established if the court determines that the findings are not supported by the weight of the evidence. In all other cases, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record.

(d) Notwithstanding subdivision (c), in cases arising from private hospital boards or boards of directors of districts organized pursuant to The Local Hospital District Law, Division 23 (commencing with Section 32000) of the Health and Safety Code, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record. However, in all cases in which the petition alleges discriminatory actions prohibited by Section 1316 of the Health and Safety Code, and the plaintiff makes a preliminary showing of substantial evidence in support of that allegation, the court shall exercise its independent judgment on the evidence and abuse of discretion shall be established if the court determines that the findings are not supported by the weight of the evidence.

(e) Where the court finds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before respondent, it may enter judgment as provided in subdivision (f) remanding the case to be reconsidered in the light of that evidence; or, in cases in which the court is authorized by law to exercise its independent judgment on the evidence, the court may admit the evidence at the hearing on the writ without remanding the case.

(f) The court shall enter judgment either commanding respondent to set aside the order or decision, or denying the writ. Where the judgment commands that the order or decision be set aside, it may order the reconsideration of the case in the light of the court's opinion and judgment and may order respondent to take such further action as is specially enjoined upon it by law, but the judgment shall not limit or control in any way the discretion legally vested in the respondent.

(g) Except as provided in subdivision (h), the court in which proceedings under this section are instituted may stay the operation of the administrative order or decision pending the judgment of the court, or until the filing of a notice of appeal from the judgment or until the expiration of the time for filing the notice, whichever occurs

first. However, no such stay shall be imposed or continued if the court is satisfied that it is against the public interest; provided that the application for the stay shall be accompanied by proof of service of a copy of the application on the respondent. Service shall be made in the manner provided by Title 5 (commencing with Section 405) of Part 2 or Chapter 5 (commencing with Section 1010) of Title 14 of Part 2. If an appeal is taken from a denial of the writ, the order or decision of the agency shall not be stayed except upon the order of the court to which the appeal is taken. However, in cases where a stay is in effect at the time of filing the notice of appeal, the stay shall be continued by operation of law for a period of 20 days from the filing of the notice. If an appeal is taken from the granting of the writ, the order or decision of the agency is stayed pending the determination of the appeal unless the court to which the appeal is taken shall otherwise order. Where any final administrative order or decision is the subject of proceedings under this section, if the petition shall have been filed while the penalty imposed is in full force and effect, the determination shall not be considered to have become moot in cases where the penalty imposed by the administrative agency has been completed or complied with during the pendency of the proceedings.

(h) (1) The court in which proceedings under this section are instituted may stay the operation of the administrative order or decision of any licensed hospital or any state agency made after a hearing required by statute to be conducted under the provisions of the Administrative Procedure Act, as set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, conducted by the agency itself or an administrative law judge on the staff of the Office of Administrative Hearings pending the judgment of the court, or until the filing of a notice of appeal from the judgment or until the expiration of the time for filing the notice, whichever occurs first. However, the stay shall not be imposed or continued unless the court is satisfied that the public interest will not suffer and that the licensed hospital or agency is unlikely to prevail ultimately on the merits; and provided further that the application for the stay shall be accompanied by proof of service of a copy of the application on the respondent. Service shall be made in the manner provided by Title 5 (commencing with Section 405) of Part 2 or Chapter 5 (commencing with Section 1010) of Title 14 of Part 2.

(2) The standard set forth in this subdivision for obtaining a stay shall apply to any administrative order or decision of an agency which issues licenses pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code or pursuant to the Osteopathic Initiative Act or the Chiropractic Initiative Act. With respect to orders or decisions of other state agencies, the standard in this subdivision shall apply only when the agency has adopted the proposed decision of the administrative law judge in its entirety or has adopted the proposed decision but reduced the proposed penalty

pursuant to subdivision (b) of Section 11517 of the Government Code; otherwise the standard in subdivision (g) shall apply.

(3) If an appeal is taken from a denial of the writ, the order or decision of the hospital or agency shall not be stayed except upon the order of the court to which the appeal is taken. However, in cases where a stay is in effect at the time of filing the notice of appeal, the stay shall be continued by operation of law for a period of 20 days from the filing of the notice. If an appeal is taken from the granting of the writ, the order or decision of the hospital or agency is stayed pending the determination of the appeal unless the court to which the appeal is taken shall otherwise order. Where any final administrative order or decision is the subject of proceedings under this section, if the petition shall have been filed while the penalty imposed is in full force and effect, the determination shall not be considered to have become moot in cases where the penalty imposed by the administrative agency has been completed or complied with during the pendency of the proceedings.

(i) Any administrative record received for filing by the clerk of the court may be disposed of as provided in Sections 1952, 1952.2, and 1952.3.

SEC. 6. Section 1094.6 of the Code of Civil Procedure is amended to read:

1094.6. (a) Judicial review of any decision of a local agency, other than school district, as the term local agency is defined in Section 54951 of the Government Code, or of any commission, board, officer or agent thereof, may be had pursuant to Section 1094.5 of this code only if the petition for writ of mandate pursuant to such section is filed within the time limits specified in this section.

(b) Any such petition shall be filed not later than the 90th day following the date on which the decision becomes final. If there is no provision for reconsideration of the decision, or for a written decision or written findings supporting the decision, in any applicable provision of any statute, charter, or rule, for the purposes of this section, the decision is final on the date it is announced. If the decision is not announced at the close of the hearing, the date, time, and place of the announcement of the decision shall be announced at the hearing. If there is a provision for reconsideration, the decision is final for purposes of this section upon the expiration of the period during which such reconsideration can be sought; provided, that if reconsideration is sought pursuant to any such provision the decision is final for the purposes of this section on the date that reconsideration is rejected. If there is a provision for a written decision or written findings, the decision is final for purposes of this section upon the date it is mailed by first-class mail, postage prepaid, including a copy of the affidavit or certificate of mailing, to the party seeking the writ. Subdivision (a) of Section 1013 does not apply to extend the time, following deposit in the mail of the decision or findings, within which a petition shall be filed.

(c) The complete record of the proceedings shall be prepared by

the local agency or its commission, board, officer, or agent which made the decision and shall be delivered to the petitioner within 90 days after he has filed a written request therefor. The local agency may recover from the petitioner its actual costs for transcribing or otherwise preparing the record. Such record shall include the transcript of the proceedings, all pleadings, all notices and orders, any proposed decision by a hearing officer, the final decision, all admitted exhibits, all rejected exhibits in the possession of the local agency or its commission, board, officer, or agent, all written evidence, and any other papers in the case.

(d) If the petitioner files a request for the record as specified in subdivision (c) within 10 days after the date the decision becomes final as provided in subdivision (b), the time within which a petition pursuant to Section 1094.5 may be filed shall be extended to not later than the 30th day following the date on which the record is either personally delivered or mailed to the petitioner or his attorney of record, if he has one.

(e) As used in this section, decision means a decision subject to review pursuant to Section 1094.5, suspending, demoting, or dismissing an officer or employee, revoking, or denying an application for a permit, license, or other entitlement, or denying an application for any retirement benefit or allowance.

(f) In making a final decision as defined in subdivision (e), the local agency shall provide notice to the party that the time within which judicial review must be sought is governed by this section.

As used in this subdivision, "party" means an officer or employee who has been suspended, demoted or dismissed; a person whose permit, license, or other entitlement has been revoked or suspended, or whose application for a permit, license, or other entitlement has been denied; or a person whose application for a retirement benefit or allowance has been denied.

(g) This section shall be applicable to a local agency only if the governing board thereof adopts an ordinance or resolution making this section applicable. If such ordinance or resolution is adopted, the provisions of this section shall prevail over any conflicting provision in any otherwise applicable law relating to the subject matter, unless the conflicting provision is a state or federal law which provides a shorter statute of limitations, in which case the shorter statute of limitations shall apply.

SEC. 7. Section 1952 of the Code of Civil Procedure is amended to read:

1952. (a) The clerk shall retain in his or her custody any exhibit, deposition, or administrative record introduced in the trial of a civil action or proceeding or filed in the action or proceeding until the final determination thereof or the dismissal of the action or proceeding, except that the court may order the exhibit, deposition, or administrative record returned to the respective party or parties at any time upon oral stipulation in open court or by written stipulation by the parties or for good cause shown.

(b) No exhibit or deposition shall be ordered destroyed or otherwise disposed of pursuant to this section where a party to the action or proceeding files a written notice with the court requesting the preservation of any exhibit, deposition, or administrative record for a stated time, but not to exceed one year.

(c) Upon the conclusion of the trial of a civil action or proceeding at which any exhibit or deposition has been introduced, the court shall order that the exhibit or deposition be destroyed or otherwise disposed of by the clerk. The operative destruction or disposition date shall be 60 days following final determination of the action or proceeding. Final determination includes final determination on appeal. Written notice of the order shall be sent by first-class mail to the parties by the clerk.

(d) Upon the conclusion of any posttrial hearing at which any exhibit, deposition, or administrative record has been introduced, the court shall order that the exhibit or deposition be destroyed or otherwise disposed of by the clerk. The operative date of destruction or disposition shall be 60 days following the conclusion of the hearing, or if an appeal is taken, upon final determination of the appeal. Written notice of the order shall be sent by first-class mail to the parties by the clerk.

SEC. 8. Section 1952.2 of the Code of Civil Procedure is amended to read:

1952.2. Notwithstanding any other provisions of law, upon a judgment becoming final, at the expiration of the appeal period, unless an appeal is pending, the court, in its discretion, and on its own motion by a written order signed by the judge, filed in the action, and an entry thereof made in the register of actions, may order the clerk to return all of the exhibits, depositions, and administrative records introduced or filed in the trial of a civil action or proceeding to the attorneys for the parties introducing or filing the same.

SEC. 9. Section 1952.3 of the Code of Civil Procedure is amended to read:

1952.3. Notwithstanding any other provision of the law, the court, on its own motion, may order the destruction or other disposition of any exhibit, deposition, or administrative record introduced in the trial or posttrial hearing of a civil action or proceeding or filed in the action or proceeding that, if appeal has not been taken from the decision of the court in the action or proceeding, remains in the custody of the court or clerk five years after time for appeal has expired, or, if appeal has been taken, remains in the custody of the court or clerk five years after final determination thereof, or that remains in the custody of the court or clerk for a period of five years after any of the following:

(a) A motion for a new trial has been granted and a memorandum to set the case for trial has not been filed, or a motion to set for trial has not been made within five years.

(b) The dismissal of the action or proceeding.

In addition, the court on its own motion, may order the destruction

or other disposition of any exhibit, deposition, or administrative record that remains in the custody of the court or clerk for a period of 10 years after the introduction or filing of the action or proceeding if, in the discretion of the court, the exhibit, deposition, or administrative record should be disposed of or destroyed.

The order shall be entered in the register of actions of each case in which the order is made.

No exhibit, deposition, or administrative record shall be ordered destroyed or otherwise disposed of pursuant to this section if a party to the action or proceeding files a written notice with the court requesting the preservation of any exhibit, deposition, or administrative record for a stated time, but not to exceed one year.

Any sealed file shall be retained for at least two years after the date on which destruction would otherwise be authorized pursuant to this section.

SEC. 9.5. Section 2024 of the Code of Civil Procedure is amended to read:

2024. (a) Except as otherwise provided in this section, any party shall be entitled as a matter of right to complete discovery proceedings on or before the 30th day, and to have motions concerning discovery heard on or before the 15th day, before the date initially set for the trial of the action. As used in this section, discovery is considered completed on the day a response is due or on the day a deposition begins. Except as provided in subdivision (e), a continuance or postponement of the trial date does not operate to reopen discovery proceedings.

(b) The time limit on completing discovery in an action to be arbitrated under Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 is subject to Judicial Council Rule. After an award in a case ordered to judicial arbitration, completion of discovery is limited by Section 1141.24.

(c) This section does not apply to (1) summary proceedings for obtaining possession of real property governed by Chapter 4 (commencing with Section 1159) of Title 3 of Part 3, in which discovery shall be completed on or before the fifth day before the date set for trial except as provided in subdivisions (e) and (f), or (2) eminent domain proceedings governed by Title 7 (commencing with Section 1230.010) of Part 3.

(d) Any party shall be entitled as a matter of right to complete discovery proceedings pertaining to a witness identified under Section 2034 on or before the 15th day, and to have motions concerning that discovery heard on or before the 10th day, before the date initially set for the trial of the action.

(e) On motion of any party, the court may grant leave to complete discovery proceedings, or to have a motion concerning discovery heard, closer to the initial trial date, or to reopen discovery after a new trial date has been set. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the

motion.

In exercising its discretion to grant or deny this motion, the court shall take into consideration any matter relevant to the leave requested, including, but not limited to, the following:

(1) The necessity and the reasons for the discovery.

(2) The diligence or lack of diligence of the party seeking the discovery or the hearing of a discovery motion, and the reasons that the discovery was not completed or that the discovery motion was not heard earlier.

(3) Any likelihood that permitting the discovery or hearing the discovery motion will prevent the case from going to trial on the date set, or otherwise interfere with the trial calendar, or result in prejudice to any other party.

(4) The length of time that has elapsed between any date previously set, and the date presently set, for the trial of the action.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to extend or to reopen discovery, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(f) Parties to the action may, with the consent of any party affected by it, enter into an agreement to extend the time for the completion of discovery proceedings or for the hearing of motions concerning discovery, or to reopen discovery after a new date for trial of the action has been set. This agreement may be informal, but it shall be confirmed in a writing that specifies the extended date. In no event shall this agreement require a court to grant a continuance or postponement of the trial of the action.

SEC. 10. Section 2025 of the Code of Civil Procedure is amended to read:

2025. (a) Any party may obtain discovery within the scope delimited by Section 2017, and subject to the restrictions set forth in Section 2019, by taking in California the oral deposition of any person, including any party to the action. The person deposed may be a natural person, an organization such as a public or private corporation, a partnership, an association, or a governmental agency.

(b) Subject to subdivisions (f) and (t), an oral deposition may be taken as follows:

(1) The defendant may serve a deposition notice without leave of court at any time after that defendant has been served or has appeared in the action, whichever occurs first.

(2) The plaintiff may serve a deposition notice without leave of court on any date that is 20 days after the service of the summons on, or appearance by, any defendant. However, on motion with or without notice, the court, for good cause shown, may grant to a plaintiff leave to serve a deposition notice on an earlier date.

(c) A party desiring to take the oral deposition of any person shall give notice in writing in the manner set forth in subdivision (d). However, where under subdivision (d) of Section 2020 only the

production by a nonparty of business records for copying is desired, a copy of the deposition subpoena shall serve as the notice of deposition. The notice of deposition shall be given to every other party who has appeared in the action. The deposition notice, or the accompanying proof of service, shall list all the parties or attorneys for parties on whom it is served.

Where, as defined in subdivision (a) of Section 1985.3, the party giving notice of the deposition is a subpoenaing party, and the deponent is a witness commanded by a deposition subpoena to produce personal records of a consumer, the subpoenaing party shall serve on that consumer (1) a notice of the deposition, (2) the notice of privacy rights specified in subdivision (e) of Section 1985.3, and (3) a copy of the deposition subpoena.

(d) The deposition notice shall state all of the following:

(1) The address where the deposition will be taken.

(2) The date of the deposition, selected under subdivision (f), and the time it will commence.

(3) The name of each deponent, and the address and telephone number, if known, of any deponent who is not a party to the action. If the name of the deponent is not known, the deposition notice shall set forth instead a general description sufficient to identify the person or particular class to which the person belongs.

(4) The specification with reasonable particularity of any materials or category of materials to be produced by the deponent.

(5) Any intention to record the testimony by audio tape or video tape, in addition to recording the testimony by the stenographic method as required by paragraph (1) of subdivision (*l*).

(6) Any intention to reserve the right to use at trial a video tape deposition of a treating or consulting physician or of any expert witness under paragraph (4) of subdivision (u). In this event, the operator of the video tape camera shall be a person who is authorized to administer an oath, and shall not be financially interested in the action or be a relative or employee of any attorney of any of the parties.

If the deponent named is not a natural person, the deposition notice shall describe with reasonable particularity the matters on which examination is requested. In that event, the deponent shall designate and produce at the deposition those of its officers, directors, managing agents, employees, or agents who are most qualified to testify on its behalf as to those matters to the extent of any information known or reasonably available to the deponent. A deposition subpoena shall advise a nonparty deponent of its duty to make this designation, and shall describe with reasonable particularity the matters on which examination is requested.

If the attendance of the deponent is to be compelled by service of a deposition subpoena under Section 2020, an identical copy of that subpoena shall be served with the deposition notice.

(e) (1) The deposition of a natural person, whether or not a party to the action, shall be taken at a place that is, at the option of the party

giving notice of the deposition, either within 75 miles of the deponent's residence, or within the county where the action is pending and within 150 miles of the deponent's residence, unless the court orders otherwise under paragraph (3).

(2) The deposition of an organization that is a party to the action shall be taken at a place that is, at the option of the party giving notice of the deposition, either within 75 miles of the organization's principal executive or business office in California, or within the county where the action is pending and within 150 miles of that office. The deposition of any other organization shall be taken within 75 miles of the organization's principal executive or business office in California, unless the organization consents to a more distant place. If the organization has not designated a principal executive or business office in California, the deposition shall be taken at a place that is, at the option of the party giving notice of the deposition, either within the county where the action is pending, or within 75 miles of any executive or business office in California of the organization.

(3) A party desiring to take the deposition of a natural person who is a party to the action or an officer, director, managing agent, or employee of a party may make a motion for an order that the deponent attend for deposition at a place that is more distant than that permitted under paragraph (1). This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of any issue presented by the motion.

In exercising its discretion to grant or deny this motion, the court shall take into consideration any factor tending to show whether the interests of justice will be served by requiring the deponent's attendance at that more distant place, including, but not limited to, the following:

(A) Whether the moving party selected the forum.

(B) Whether the deponent will be present to testify at the trial of the action.

(C) The convenience of the deponent.

(D) The feasibility of conducting the deposition by written questions under Section 2028, or of using a discovery method other than a deposition.

(E) The number of depositions sought to be taken at a place more distant than that permitted under paragraph (1).

(F) The expense to the parties of requiring the deposition to be taken within the distance permitted under paragraph (1).

(G) The whereabouts of the deponent at the time for which the deposition is scheduled.

The order may be conditioned on the advancement by the moving party of the reasonable expenses and costs to the deponent for travel to the place of deposition.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or

opposes a motion to increase travel limits for party-deponent, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(f) An oral deposition shall be scheduled for a date at least 10 days after service of the deposition notice. If, as defined in subdivision (a) of Section 1985.3, the party giving notice of the deposition is a subpoenaing party, and the deponent is a witness commanded by a deposition subpoena to produce personal records of a consumer, the deposition shall be scheduled for a date at least 20 days after issuance of that subpoena. However, in unlawful detainer actions, an oral deposition shall be scheduled for a date at least five days after service of the deposition notice, but not later than five days before trial.

On motion or ex parte application of any party or deponent, for good cause shown, the court may shorten or extend the time for scheduling a deposition, or may stay its taking until the determination of a motion for a protective order under subdivision (i).

(g) Any party served with a deposition notice that does not comply with subdivisions (b) to (f), inclusive, waives any error or irregularity unless that party promptly serves a written objection specifying that error or irregularity at least three calendar days prior to the date for which the deposition is scheduled, on the party seeking to take the deposition and any other attorney or party on whom the deposition notice was served. If an objection is made three calendar days before the deposition date, the objecting party shall make personal service of that objection pursuant to Section 1011 on the party who gave notice of the deposition. Any deposition taken after the service of a written objection shall not be used against the objecting party under subdivision (u) if the party did not attend the deposition and if the court determines that the objection was a valid one.

In addition to serving this written objection, a party may also move for an order staying the taking of the deposition and quashing the deposition notice. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of any issue presented by the motion. The taking of the deposition is stayed pending the determination of this motion.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to quash a deposition notice, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(h) (1) The service of a deposition notice under subdivision (c) is effective to require any deponent who is a party to the action or an officer, director, managing agent, or employee of a party to attend and to testify, as well as to produce any document or tangible thing for inspection and copying.

(2) The attendance and testimony of any other deponent, as well

as the production by the deponent of any document or tangible thing for inspection and copying, requires the service on the deponent of a deposition subpoena under Section 2020.

(i) Before, during, or after a deposition, any party, any deponent, or any other affected natural person or organization may promptly move for a protective order. The motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion.

The court, for good cause shown, may make any order that justice requires to protect any party, deponent, or other natural person or organization from unwarranted annoyance, embarrassment, or oppression, or undue burden and expense. This protective order may include, but is not limited to, one or more of the following directions:

(1) That the deposition not be taken at all.

(2) That the deposition be taken at a different time.

(3) That a video tape deposition of a treating or consulting physician or of any expert witness, intended for possible use at trial under paragraph (4) of subdivision (u), be postponed until the moving party has had an adequate opportunity to prepare, by discovery deposition of the deponent, or other means, for cross-examination.

(4) That the deposition be taken at a place other than that specified in the deposition notice, if it is within a distance permitted by subdivision (e).

(5) That the deposition be taken only on certain specified terms and conditions.

(6) That the deponent's testimony be taken by written, instead of oral, examination.

(7) That the method of discovery be interrogatories to a party instead of an oral deposition.

(8) That the testimony be recorded in a manner different from that specified in the deposition notice.

(9) That certain matters not be inquired into.

(10) That the scope of the examination be limited to certain matters.

(11) That all or certain of the writings or tangible things designated in the deposition notice not be produced, inspected, or copied.

(12) That designated persons, other than the parties to the action and their officers and counsel, be excluded from attending the deposition.

(13) That a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only to specified persons or only in a specified way.

(14) That the parties simultaneously file specified documents enclosed in sealed envelopes to be opened as directed by the court.

(15) That the deposition be sealed and thereafter opened only on order of the court.

If the motion for a protective order is denied in whole or in part,

the court may order that the deponent provide or permit the discovery against which protection was sought on those terms and conditions that are just.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion for a protective order, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(j) (1) If the party giving notice of a deposition fails to attend or proceed with it, the court shall impose a monetary sanction under Section 2023 against that party, or the attorney for that party, or both, and in favor of any party attending in person or by attorney, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(2) If a deponent does not appear for a deposition because the party giving notice of the deposition failed to serve a required deposition subpoena, the court shall impose a monetary sanction under Section 2023 against that party, or the attorney for that party, or both, in favor of any other party who, in person or by attorney, attended at the time and place specified in the deposition notice in the expectation that the deponent's testimony would be taken, unless the court finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

If a deponent on whom a deposition subpoena has been served fails to attend a deposition or refuses to be sworn as a witness, the court may impose on the deponent the sanctions described in subdivision (h) of Section 2020.

(3) If, after service of a deposition notice, a party to the action or an officer, director, managing agent, or employee of a party, or a person designated by an organization that is a party under subdivision (d), without having served a valid objection under subdivision (g), fails to appear for examination, or to proceed with it, or to produce for inspection any document or tangible thing described in the deposition notice, the party giving the notice may move for an order compelling the deponent's attendance and testimony, and the production for inspection of any document or tangible thing described in the deposition notice. This motion (A) shall set forth specific facts showing good cause justifying the production for inspection of any document or tangible thing described in the deposition notice, and (B) shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by it. If this motion is granted, the court shall also impose a monetary sanction under Section 2023 against the deponent or the party with whom the deponent is affiliated, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust. On motion

of any other party who, in person or by attorney, attended at the time and place specified in the deposition notice in the expectation that the deponent's testimony would be taken, the court shall also impose a monetary sanction under Section 2023, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

If that party or party-affiliated deponent then fails to obey an order compelling attendance, testimony, and production, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023 against that party deponent or against the party with whom the deponent is affiliated. In lieu of or in addition to this sanction, the court may impose a monetary sanction under Section 2023 against that deponent or against the party with whom that party deponent is affiliated, and in favor of any party who, in person or by attorney, attended in the expectation that the deponent's testimony would be taken pursuant to that order.

(k) Except as provided in paragraph (3) of subdivision (d) of Section 2020, the deposition shall be conducted under the supervision of an officer who is authorized to administer an oath. This officer shall not be financially interested in the action and shall not be a relative or employee of any attorney of any of the parties. Any objection to the qualifications of the deposition officer is waived unless made before the deposition begins or as soon thereafter as the ground for that objection becomes known or could be discovered by reasonable diligence.

(*l*) (1) The deposition officer shall put the deponent under oath. Unless the parties agree or the court orders otherwise, the testimony, as well as any stated objections, shall be taken stenographically. The party noticing the deposition may also record the testimony by audio tape or video tape if the notice of deposition stated an intention also to record the testimony by either of those methods, or if all the parties agree that the testimony may also be recorded by either of those methods. Any other party, at that party's expense, may make a simultaneous audio tape or video tape record of the deposition, provided that other party promptly, and in no event less than three calendar days before the date for which the deposition is scheduled, serves a written notice of this intention to audio tape or video tape the deposition testimony on the party or attorney who noticed the deposition, on all other parties or attorneys on whom the deposition notice was served under subdivision (c), and on any deponent whose attendance is being compelled by a deposition subpoena under Section 2020. If this notice is given three calendar days before the deposition date, it shall be made by personal service under Section 1011. Examination and cross-examination of the deponent shall proceed as permitted at trial under the provisions of the Evidence Code.

(2) If the deposition is being recorded by means of audio tape or video tape, the following procedure shall be observed:

(A) The area used for recording the deponent's oral testimony shall be suitably large, adequately lighted, and reasonably quiet.

(B) The operator of the recording equipment shall be competent to set up, operate, and monitor the equipment in the manner prescribed in this subdivision. The operator may be an employee of the attorney taking the deposition unless the operator is also the deposition officer. However, if a video tape of deposition testimony is to be used under paragraph (4) of subdivision (u), the operator of the recording equipment shall be a person who is authorized to administer an oath, and shall not be financially interested in the action or be a relative or employee of any attorney of any of the parties, unless all parties attending the deposition agree on the record to waive these qualifications and restrictions.

(C) The operator shall not distort the appearance or the demeanor of participants in the deposition by the use of camera or sound recording techniques.

(D) The deposition shall begin with an oral or written statement on camera or on the audio tape that includes the operator's name and business address, the name and business address of the operator's employer, the date, time, and place of the deposition, the caption of the case, the name of the deponent, a specification of the party on whose behalf the deposition is being taken, and any stipulations by the parties.

(E) Counsel for the parties shall identify themselves on camera or on the audio tape.

(F) The oath shall be administered to the deponent on camera or on the audio tape.

(G) If the length of a deposition requires the use of more than one unit of tape, the end of each unit and the beginning of each succeeding unit shall be announced on camera or on the audio tape.

(H) At the conclusion of a deposition, a statement shall be made on camera or on the audio tape that the deposition is ended and shall set forth any stipulations made by counsel concerning the custody of the audio tape or video tape recording and the exhibits, or concerning other pertinent matters.

(I) A party intending to offer an audio taped or video taped recording of a deposition in evidence under subdivision (u) shall notify the court and all parties in writing of that intent and of the parts of the deposition to be offered within sufficient time for objections to be made and ruled on by the judge to whom the case is assigned for trial or hearing, and for any editing of the tape. Objections to all or part of the deposition shall be made in writing. The court may permit further designations of testimony and objections as justice may require. With respect to those portions of an audio taped or video taped deposition that are not designated by any party or that are ruled to be objectionable, the court may order that the party offering the recording of the deposition at the trial or hearing suppress those portions, or that an edited version of the deposition tape be prepared for use at the trial or hearing. The

original audio tape or video tape of the deposition shall be preserved unaltered. If no stenographic record of the deposition testimony has previously been made, the party offering a video tape or an audio tape recording of that testimony under subdivision (u) shall accompany that offer with a stenographic transcript prepared from that recording.

(3) In lieu of participating in the oral examination, parties may transmit written questions in a sealed envelope to the party taking the deposition for delivery to the deposition officer, who shall unseal the envelope and propound them to the deponent after the oral examination has been completed.

(m) (1) The protection of information from discovery on the ground that it is privileged or that it is protected work product under Section 2018 is waived unless a specific objection to its disclosure is timely made during the deposition.

(2) Errors and irregularities of any kind occurring at the oral examination that might be cured if promptly presented are waived unless a specific objection to them is timely made during the deposition. These errors and irregularities include, but are not limited to, those relating to the manner of taking the deposition, to the oath or affirmation administered, to the conduct of a party, attorney, deponent, or deposition officer, or to the form of any question or answer. Unless the objecting party demands that the taking of the deposition be suspended to permit a motion for a protective order under subdivision (n), the deposition shall proceed subject to the objection.

(3) Objections to the competency of the deponent, or to the relevancy, materiality, or admissibility at trial of the testimony or of the materials produced are unnecessary and are not waived by failure to make them before or during the deposition.

(4) If a deponent fails to answer any question or to produce any document or tangible thing under the deponent's control that is specified in the deposition notice or a deposition subpoena, the party seeking that answer or production may adjourn the deposition or complete the examination on other matters without waiving the right at a later time to move for an order compelling that answer or production under subdivision (o).

(n) On demand of any party or the deponent, the deposition officer shall suspend the taking of testimony to enable that party or deponent to move for a protective order on the ground that the examination is being conducted in bad faith or in a manner that unreasonably annoys, embarrasses, or oppresses that deponent or party. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion. The court, for good cause shown, may terminate the examination or may limit the scope and manner of taking the deposition as provided in subdivision (i). If the order terminates the examination, the deposition shall not thereafter be resumed, except on order of the court.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion for this protective order, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(o) If a deponent fails to answer any question or to produce any document or tangible thing under the deponent's control that is specified in the deposition notice or a deposition subpoena, the party seeking discovery may move the court for an order compelling that answer or production. This motion shall be made no later than 60 days after the completion of the record of the deposition, and shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion. Notice of this motion shall be given to all parties, and to the deponent either orally at the examination, or by subsequent service in writing. If the notice of the motion is given orally, the deposition officer shall direct the deponent to attend a session of the court at the time specified in the notice. Not less than five days prior to the hearing on this motion, the moving party shall lodge with the court a certified copy of any parts of the stenographic transcript of the deposition that are relevant to the motion. If a deposition is recorded by audio tape or video tape, the moving party is required to lodge a certified copy of a transcript of any parts of the deposition that are relevant to the motion. If the court determines that the answer or production sought is subject to discovery, it shall order that the answer be given or the production be made on the resumption of the deposition.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel answer or production, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

If a deponent fails to obey an order entered under this subdivision, the failure may be considered a contempt of court. In addition, if the disobedient deponent is a party to the action or an officer, director, managing agent, or employee of a party, the court may make those orders that are just against the disobedient party, or against the party with whom the disobedient deponent is affiliated, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023. In lieu of or in addition to this sanction, the court may impose a monetary sanction under Section 2023 against that party deponent or against any party with whom the deponent is affiliated.

(p) Unless the parties agree otherwise, the testimony at any deposition recorded by stenographic means shall be transcribed. The party noticing the deposition shall bear the cost of that transcription, unless the court, on motion and for good cause shown, orders that the cost be borne or shared by another party. Any other party, at that party's expense, may obtain a copy of the transcript. At the request

of any other party to the action, including a party who did not attend the taking of the deposition testimony, any party who records or causes the recording of that testimony by means of audio tape or video tape shall promptly (1) permit that other party to hear the audio tape or to view the video tape, and (2) furnish a copy of the audio tape or video tape to that other party on receipt of payment of the reasonable cost of making that copy of the tape.

If the testimony at the deposition is recorded both stenographically, and by audio tape or video tape, the stenographic transcript is the official record of that testimony for the purpose of the trial and any subsequent hearing or appeal.

(q) (1) If the deposition testimony is stenographically recorded, the deposition officer shall send written notice to the deponent and to all parties attending the deposition when the original transcript of the testimony is available for reading, correcting, and signing, unless the deponent and the attending parties agree on the record to waive the reading, correcting, and signing of the transcript of the testimony. For 30 days following this notice, the deponent may change the form or the substance of the answer to any question, and may either approve the transcript of the deposition by signing it, or refuse to approve the transcript by not signing it.

Alternatively, within this same 30-day period, the deponent may change the form or the substance of the answer to any question and may approve or refuse to approve the transcript by means of a letter to the deposition officer signed by the deponent which is mailed by certified or registered mail with return receipt requested. A copy of that letter shall be sent by first-class mail to all parties attending the deposition. For good cause shown, the court may shorten the 30-day period for making changes, approving, or refusing to approve the transcript.

The deposition officer shall indicate on the original of the transcript, if the deponent has not already done so at the office of the deposition officer, any action taken by the deponent and indicate on the original of the transcript, the deponent's approval of, or failure or refusal to approve, the transcript. The deposition officer shall also notify in writing the parties attending the deposition of any changes which the deponent timely made in person. If the deponent fails or refuses to approve the transcript within the allotted period, the deposition shall be given the same effect as though it had been approved, subject to any changes timely made by the deponent. However, on a seasonable motion to suppress the deposition, accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion, the court may determine that the reasons given for the failure or refusal to approve the transcript require rejection of the deposition in whole or in part.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to suppress a deposition, unless it finds that the one

subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(2) If there is no stenographic transcription of the deposition, the deposition officer shall send written notice to the deponent and to all parties attending the deposition that the recording is available for review, unless the deponent and all these parties agree on the record to waive the hearing or viewing of an audio tape or video tape recording of the testimony. For 30 days following this notice the deponent, either in person or by signed letter to the deposition officer, may change the substance of the answer to any question.

The deposition officer shall set forth in a writing to accompany the recording any changes made by the deponent, as well as either the deponent's signature identifying the deposition as his or her own, or a statement of the deponent's failure to supply such signature, or to contact the officer within the allotted period. When a deponent fails to contact the officer within the allotted period, or expressly refuses by a signature to identify the deposition as his or her own, the deposition shall be given the same effect as though signed. However, on a seasonable motion to suppress the deposition, accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion, the court may determine that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to suppress a deposition, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(r) The deposition officer shall certify on the transcript of the deposition, or in the writing accompanying an audio taped or video taped deposition as described in paragraph (2) of subdivision (q), that the deponent was duly sworn and that the transcript or recording is a true record of the testimony given and of any changes made by the deponent.

(s) (1) The certified transcript of a deposition shall not be filed with the court. Instead, the deposition officer shall securely seal that transcript in an envelope or package endorsed with the title of the action and marked: "Deposition of (here insert name of deponent)", and shall promptly transmit it to the attorney for the party who noticed the deposition. This attorney shall store it under conditions that will protect it against loss, destruction, or tampering.

The attorney to whom the transcript of a deposition is transmitted shall retain custody of it until six months after final disposition of the action. At that time, the transcript may be destroyed, unless the court, on motion of any party and for good cause shown, orders that the transcript be preserved for a longer period.

(2) An audio tape or video tape record of deposition testimony, including a certified tape made by an operator qualified under subparagraph (B) of paragraph (2) of subdivision (*l*), shall not be

filed with the court. Instead, the operator shall retain custody of that record and shall store it under conditions that will protect it against loss, destruction, or tampering, and preserve as far as practicable the quality of the tape and the integrity of the testimony and images it contains.

At the request of any party to the action, including a party who did not attend the taking of the deposition testimony, or at the request of the deponent, that operator shall promptly (A) permit the one making the request to hear or to view the tape on receipt of payment of a reasonable charge for providing the facilities for hearing or viewing the tape, and (B) furnish a copy of the audio tape or the video tape recording to the one making the request on receipt of payment of the reasonable cost of making that copy of the tape.

The attorney or operator who has custody of an audio tape or video tape record of deposition testimony shall retain custody of it until six months after final disposition of the action. At that time, the audio tape or video tape may be destroyed or erased, unless the court, on motion of any party and for good cause shown, orders that the tape be preserved for a longer period.

(t) Once any party has taken the deposition of any natural person, including that of a party to the action, neither the party who gave, nor any other party who received, notice of the deposition may take a subsequent deposition of that deponent. However, for good cause shown, the court may grant leave to take a subsequent deposition, and the parties, with the consent of any deponent who is not a party, may stipulate that a subsequent deposition be taken. This subdivision does not preclude taking one subsequent deposition of a natural person who has previously been examined as a result of that person's designation to testify on behalf of an organization under subdivision (d).

(u) At the trial or any other hearing in the action, any part or all of a deposition may be used against any party who was present or represented at the taking of the deposition, or who had due notice of the deposition and did not serve a valid objection under subdivision (g), so far as admissible under the rules of evidence applied as though the deponent were then present and testifying as a witness, in accordance with the following provisions:

(1) Any party may use a deposition for the purpose of contradicting or impeaching the testimony of the deponent as a witness, or for any other purpose permitted by the Evidence Code.

(2) An adverse party may use for any purpose, a deposition of a party to the action, or of anyone who at the time of taking the deposition was an officer, director, managing agent, employee, agent, or designee under subdivision (d) of a party. It is not ground for objection to the use of a deposition of a party under this paragraph by an adverse party that the deponent is available to testify, has testified, or will testify at the trial or other hearing.

(3) Any party may use for any purpose the deposition of any person or organization, including that of any party to the action, if

the court finds any of the following:

(A) The deponent resides more than 150 miles from the place of the trial or other hearing.

(B) The deponent, without the procurement or wrongdoing of the proponent of the deposition for the purpose of preventing testimony in open court, is (i) exempted or precluded on the ground of privilege from testifying concerning the matter to which the deponent's testimony is relevant, (ii) disqualified from testifying, (iii) dead or unable to attend or testify because of existing physical or mental illness or infirmity, (iv) absent from the trial or other hearing and the court is unable to compel the deponent's attendance by its process, or (v) absent from the trial or other hearing and the proponent of the deposition has exercised reasonable diligence but has been unable to procure the deponent's attendance by the court's process.

(C) Exceptional circumstances exist that make it desirable to allow the use of any deposition in the interests of justice and with due regard to the importance of presenting the testimony of witnesses orally in open court.

(4) Any party may use a video tape deposition of a treating or consulting physician or of any expert witness even though the deponent is available to testify if the deposition notice under subdivision (d) reserved the right to use the deposition at trial, and if that party has complied with subparagraph (I) of paragraph (2) of subdivision (*l*).

(5) Subject to the requirements of this section, a party may offer in evidence all or any part of a deposition, and if the party introduces only part of the deposition, any other party may introduce any other parts that are relevant to the parts introduced.

(6) Substitution of parties does not affect the right to use depositions previously taken.

(7) When an action has been brought in any court of the United States or of any state, and another action involving the same subject matter is subsequently brought between the same parties or their representatives or successors in interest, all depositions lawfully taken and duly filed in the initial action may be used in the subsequent action as if originally taken in that subsequent action. A deposition previously taken may also be used as permitted by the Evidence Code.

SEC. 11. Section 2030 of the Code of Civil Procedure is amended to read:

2030. (a) Any party may obtain discovery within the scope delimited by Section 2017, and subject to the restrictions set forth in Section 2019, by propounding to any other party to the action written interrogatories to be answered under oath.

(b) A defendant may propound interrogatories to a party to the action without leave of court at any time. A plaintiff may propound interrogatories to a party without leave of court at any time that is 10 days after the service of the summons on, or in unlawful detainer

actions five days after service of the summons on or appearance by, that party, whichever occurs first. However, on motion with or without notice, the court, for good cause shown, may grant leave to a plaintiff to propound interrogatories at an earlier time.

(c) (1) A party may propound to another party (1) 35 specially prepared interrogatories, and (2) any additional number of official form interrogatories, as described in Section 2033.5, that are relevant to the subject matter of the pending action. Except as provided in paragraph (8), no party shall, as a matter of right, propound to any other party more than 35 specially prepared interrogatories. If the initial set of interrogatories does not exhaust this limit, the balance may be propounded in subsequent sets. Unless a declaration as described in paragraph (3) has been made, a party need only respond to the first 35 specially prepared interrogatories served, if that party states an objection to the balance, under paragraph (3) of subdivision (f), on the ground that the limit has been exceeded.

(2) Subject to the right of the responding party to seek a protective order under subdivision (e), any party who attaches a supporting declaration as described in paragraph (3) may propound a greater number of specially prepared interrogatories to another party if this greater number is warranted because of any of the following:

(A) The complexity or the quantity of the existing and potential issues in the particular case.

(B) The financial burden on a party entailed in conducting the discovery by oral deposition.

(C) The expedience of using this method of discovery to provide to the responding party the opportunity to conduct an inquiry, investigation, or search of files or records to supply the information sought.

If the responding party seeks a protective order on the ground that the number of specially prepared interrogatories is unwarranted, the propounding party shall have the burden of justifying the number of these interrogatories.

(3) Any party who is propounding or has propounded more than 35 specially prepared interrogatories to any other party shall attach to each set of those interrogatories a declaration containing substantially the following:

DECLARATION FOR ADDITIONAL DISCOVERY

I, _____, declare:

1. I am (a party to this action or proceeding appearing in propria persona) (presently the attorney for _____, a party to this action or proceeding).

2. I am propounding to _____ the attached set of interrogatories.

3. This set of interrogatories will cause the total number of specially prepared interrogatories propounded to the party to whom

they are directed to exceed the number of specially prepared interrogatories permitted by paragraph (1) of subdivision (c) of Section 2030 of the Code of Civil Procedure.

4. I have previously propounded a total of _____ interrogatories to this party, of which _____ interrogatories were not official form interrogatories.

5. This set of interrogatories contains a total of _____ specially prepared interrogatories.

6. I am familiar with the issues and the previous discovery conducted by all of the parties in the case.

7. I have personally examined each of the questions in this set of interrogatories.

8. This number of questions is warranted under paragraph (2) of subdivision (c) of Section 2030 of the Code of Civil Procedure because _____. (Here state each factor described in paragraph (2) of subdivision (c) that is relied on, as well as the reasons why any factor relied on is applicable to the instant lawsuit.)

9. None of the questions in this set of interrogatories is being propounded for any improper purpose, such as to harass the party, or the attorney for the party, to whom it is directed, or to cause unnecessary delay or needless increase in the cost of litigation.

I declare under penalty of perjury under the laws of California that the foregoing is true and correct, and that this declaration was executed on _____.

_____

(Signature)

Attorney for _____

(4) A party propounding interrogatories shall number each set of interrogatories consecutively. In the first paragraph immediately below the title of the case, there shall appear the identity of the propounding party, the set number, and the identity of the responding party. Each interrogatory in a set shall be separately set forth and identified by number or letter.

(5) Each interrogatory shall be full and complete in and of itself. No preface or instruction shall be included with a set of interrogatories unless it has been approved under Section 2033.5. Any term specially defined in a set of interrogatories shall be typed with all letters capitalized wherever that term appears. No specially prepared interrogatory shall contain subparts, or a compound, conjunctive, or disjunctive question.

(6) An interrogatory may relate to whether another party is making a certain contention, or to the facts, witnesses, and writings on which a contention is based. An interrogatory is not objectionable because an answer to it involves an opinion or contention that relates to fact or the application of law to fact, or would be based on information obtained or legal theories developed in anticipation of litigation or in preparation for trial.

(7) An interrogatory may not be made a continuing one so as to

impose on the party responding to it a duty to supplement an answer to it that was initially correct and complete with later acquired information.

(8) In addition to the number of interrogatories permitted by paragraphs (1) and (2), a party may propound a supplemental interrogatory to elicit any later acquired information bearing on all answers previously made by any party in response to interrogatories (1) twice prior to the initial setting of a trial date, and (2) subject to the time limits on discovery proceedings and motions provided in Section 2024, once after the initial setting of a trial date. However, on motion, for good cause shown, the court may grant leave to a party to propound an additional number of supplemental interrogatories.

(d) The party propounding interrogatories shall serve a copy of them (1) on the party to whom they are directed, and (2) on all other parties who have appeared in the action, unless the court on motion with or without notice has relieved that party from this requirement on its determination that service on all other parties would be unduly expensive or burdensome.

(e) When interrogatories have been propounded, the responding party, and any other party or affected natural person or organization may promptly move for a protective order. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion.

The court, for good cause shown, may make any order that justice requires to protect any party or other natural person or organization from unwarranted annoyance, embarrassment, or oppression, or undue burden and expense. This protective order may include, but is not limited to, one or more of the following directions:

(1) That the set of interrogatories, or particular interrogatories in the set, need not be answered.

(2) That, contrary to the representations made in a declaration submitted under paragraph (3) of subdivision (c), the number of specially prepared interrogatories is unwarranted.

(3) That the time specified in subdivision (h) to respond to the set of interrogatories, or to particular interrogatories in the set, be extended.

(4) That the response be made only on specified terms and conditions.

(5) That the method of discovery be an oral deposition instead of interrogatories to a party.

(6) That a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a certain way.

(7) That some or all of the answers to interrogatories be sealed and thereafter opened only on order of the court.

If the motion for a protective order is denied in whole or in part, the court may order that the party provide or permit the discovery against which protection was sought on terms and conditions that are

just.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion for a protective order, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances made the imposition of the sanction unjust.

(f) The party to whom interrogatories have been propounded shall respond in writing under oath separately to each interrogatory by (1) an answer containing the information sought to be discovered, (2) an exercise of the party's option to produce writings, or (3) an objection to the particular interrogatory. In the first paragraph of the response immediately below the title of the case, there shall appear the identity of the responding party, the set number, and the identity of the propounding party. Each answer, exercise of option, or objection in the response shall bear the same identifying number or letter and be in the same sequence as the corresponding interrogatory, but the text of that interrogatory need not be repeated.

(1) Each answer in the response shall be as complete and straightforward as the information reasonably available to the responding party permits. If an interrogatory cannot be answered completely, it shall be answered to the extent possible. If the responding party does not have personal knowledge sufficient to respond fully to an interrogatory, that party shall so state, but shall make a reasonable and good faith effort to obtain the information by inquiry to other natural persons or organizations, except where the information is equally available to the propounding party.

(2) If the answer to an interrogatory would necessitate the preparation or the making of a compilation, abstract, audit, or summary of or from the documents of the party to whom the interrogatory is directed, and if the burden or expense of preparing or making it would be substantially the same for the party propounding the interrogatory as for the responding party, it is a sufficient answer to that interrogatory to refer to this subdivision and to specify the writings from which the answer may be derived or ascertained. This specification shall be in sufficient detail to permit the propounding party to locate and to identify, as readily as the responding party can, the documents from which the answer may be ascertained. The responding party shall then afford to the propounding party a reasonable opportunity to examine, audit, or inspect these documents and to make copies, compilations, abstracts, or summaries of them.

(3) If only a part of an interrogatory is objectionable, the remainder of the interrogatory shall be answered. If an objection is made to an interrogatory or to a part of an interrogatory, the specific ground for the objection shall be set forth clearly in the response. If an objection is based on a claim of privilege, the particular privilege invoked shall be clearly stated. If an objection is based on a claim that the information sought is protected work product under Section

2018, that claim shall be expressly asserted.

(g) The party to whom the interrogatories are directed shall sign the response under oath unless the response contains only objections. If that party is a public or private corporation, or a partnership, association, or governmental agency, one of its officers or agents shall sign the response under oath on behalf of that party. If the officer or agent signing the response on behalf of that party is an attorney acting in that capacity for the party, that party waives any lawyer-client privilege and any protection for work product under Section 2018 during any subsequent discovery from that attorney concerning the identity of the sources of the information contained in the response. The attorney for the responding party shall sign any responses that contain an objection.

(h) Within 30 days after service of interrogatories, or in unlawful detainer actions within five days after service of interrogatories the party to whom the interrogatories are propounded shall serve the original of the response to them on the propounding party, unless on motion of the propounding party the court has shortened the time for response, or unless on motion of the responding party the court has extended the time for response. In unlawful detainer actions, the party to whom the interrogatories are propounded shall have five days from the date of service to respond unless on motion of the propounding party the court has shortened the time for response. The party to whom the interrogatories are propounded shall also serve a copy of the response on all other parties who have appeared in the action, unless the court on motion with or without notice has relieved that party from this requirement on its determination that service on all other parties would be unduly expensive or burdensome.

(i) The party propounding interrogatories and the responding party may agree to extend the time for service of a response to a set of interrogatories, or to particular interrogatories in a set, to a date beyond that provided in subdivision (h). This agreement may be informal, but it shall be confirmed in a writing that specifies the extended date for service of a response. Unless this agreement expressly states otherwise, it is effective to preserve to the responding party the right to respond to any interrogatory to which the agreement applies in any manner specified in subdivision (f).

(j) The interrogatories and the response thereto shall not be filed with the court. The propounding party shall retain both the original of the interrogatories, with the original proof of service affixed to them, and the original of the sworn response until six months after final disposition of the action. At that time, both originals may be destroyed, unless the court on motion of any party and for good cause shown orders that the originals be preserved for a longer period.

(k) If a party to whom interrogatories have been directed fails to serve a timely response, that party waives any right to exercise the option to produce writings under subdivision (f), as well as any objection to the interrogatories, including one based on privilege or

on the protection for work product under Section 2018. However, the court, on motion, may relieve that party from this waiver on its determination that (1) the party has subsequently served a response that is in substantial compliance with subdivision (f), and (2) the party's failure to serve a timely response was the result of mistake, inadvertence, or excusable neglect.

The party propounding the interrogatories may move for an order compelling response to the interrogatories. The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel a response to interrogatories, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust. If a party then fails to obey an order compelling answers, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023. In lieu of or in addition to that sanction, the court may impose a monetary sanction under Section 2023.

(*l*) If the propounding party, on receipt of a response to interrogatories, deems that (1) an answer to a particular interrogatory is evasive or incomplete, (2) an exercise of the option to produce documents under paragraph (2) of subdivision (f) is unwarranted or the required specification of those documents is inadequate, or (3) an objection to an interrogatory is without merit or too general, that party may move for an order compelling a further response. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion.

Unless notice of this motion is given within 45 days of the service of the response, or any supplemental response, or on or before any specific later date to which the propounding party and the responding party have agreed in writing, the propounding party waives any right to compel a further response to the interrogatories.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel a further response to interrogatories, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

If a party then fails to obey an order compelling further response to interrogatories, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023. In lieu of or in addition to that sanction, the court may impose a monetary sanction under Section 2023.

(m) Without leave of court, a party may serve an amended answer to any interrogatory that contains information subsequently discovered, inadvertently omitted, or mistakenly stated in the initial interrogatory. At the trial of the action, the propounding party or any

other party may use the initial answer under subdivision (n), and the responding party may then use the amended answer.

The party who propounded an interrogatory to which an amended answer has been served may move for an order that the initial answer to that interrogatory be deemed binding on the responding party for the purpose of the pending action. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion. The court shall grant this motion if it determines that (1) the initial failure of the responding party to answer the interrogatory correctly has substantially prejudiced the party who propounded the interrogatory, (2) the responding party has failed to show substantial justification for the initial answer to that interrogatory, and (3) the prejudice to the propounding party cannot be cured either by a continuance to permit further discovery or by the use of the initial answer under subdivision (n).

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to deem binding an initial answer to an interrogatory, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(n) At the trial or any other hearing in the action, so far as admissible under the rules of evidence, the propounding party or any party other than the responding party may use any answer or part of an answer to an interrogatory only against the responding party. It is not ground for objection to the use of an answer to an interrogatory that the responding party is available to testify, has testified, or will testify at the trial or other hearing.

SEC. 12. Section 2031 of the Code of Civil Procedure is amended to read:

2031. (a) Any party may obtain discovery within the scope delimited by Section 2017, and subject to the restrictions set forth in Section 2019, by inspecting documents, tangible things, and land or other property that are in the possession, custody, or control of any other party to the action.

(1) A party may demand that any other party produce and permit the party making the demand, or someone acting on that party's behalf, to inspect and to copy a document that is in the possession, custody, or control of the party on whom the demand is made.

(2) A party may demand that any other party produce and permit the party making the demand, or someone acting on that party's behalf, to inspect and to photograph, test, or sample any tangible things that are in the possession, custody, or control of the party on whom the demand is made.

(3) A party may demand that any other party allow the party making the demand, or someone acting on that party's behalf, to enter on any land or other property that is in the possession, custody, or control of the party on whom the demand is made, and to inspect

and to measure, survey, photograph, test, or sample the land or other property, or any designated object or operation on it.

(b) A defendant may make a demand for inspection without leave of court at any time. A plaintiff may make a demand for inspection without leave of court at any time that is 10 days after the service of the summons on, or in unlawful detainer actions within five days after service of the summons on or appearance by, the party to whom the demand is directed, whichever occurs first. However, on motion with or without notice, the court, for good cause shown, may grant leave to a plaintiff to make an inspection demand at an earlier time.

(c) A party demanding an inspection shall number each set of demands consecutively. In the first paragraph immediately below the title of the case, there shall appear the identity of the demanding party, the set number, and the identity of the responding party. Each demand in a set shall be separately set forth, identified by number or letter, and shall do all of the following:

(1) Designate the documents, tangible things, or land or other property to be inspected either by specifically describing each individual item or by reasonably particularizing each category of item.

(2) Specify a reasonable time for the inspection that is at least 30 days after service of the demand, or in unlawful detainer actions at least five days after service of the demand, unless the court for good cause shown has granted leave to specify an earlier date.

(3) Specify a reasonable place for making the inspection, copying, and performing any related activity.

(4) Specify any related activity that is being demanded in addition to an inspection and copying, as well as the manner in which that related activity will be performed, and whether that activity will permanently alter or destroy the item involved.

(d) The party demanding an inspection shall serve a copy of the inspection demand on the party to whom it is directed and on all other parties who have appeared in the action.

(e) When an inspection of documents, tangible things or places has been demanded, the party to whom the demand has been directed, and any other party or affected person or organization, may promptly move for a protective order. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion.

The court, for good cause shown, may make any order that justice requires to protect any party or other natural person or organization from unwarranted annoyance, embarrassment, or oppression, or undue burden and expense. This protective order may include, but is not limited to, one or more of the following directions:

(1) That all or some of the items or categories of items in the inspection demand need not be produced or made available at all.

(2) That the time specified in subdivision (h) to respond to the set of inspection demands, or to a particular item or category in the set,

be extended.

(3) That the place of production be other than that specified in the inspection demand.

(4) That the inspection be made only on specified terms and conditions.

(5) That a trade secret or other confidential research, development, or commercial information not be disclosed, or be disclosed only to specified persons or only in a specified way.

(6) That the items produced be sealed and thereafter opened only on order of the court.

If the motion for a protective order is denied in whole or in part, the court may order that the party to whom the demand was directed provide or permit the discovery against which protection was sought on terms and conditions that are just.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion for a protective order, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(f) The party to whom an inspection demand has been directed shall respond separately to each item or category of item by a statement that the party will comply with the particular demand for inspection and any related activities, a representation that the party lacks the ability to comply with the demand for inspection of a particular item or category of item, or an objection to the particular demand.

In the first paragraph of the response immediately below the title of the case, there shall appear the identity of the responding party, the set number, and the identity of the demanding party. Each statement of compliance, each representation, and each objection in the response shall bear the same number and be in the same sequence as the corresponding item or category in the demand, but the text of that item or category need not be repeated.

(1) A statement that the party to whom an inspection demand has been directed will comply with the particular demand shall state that the production, inspection, and related activity demanded will be allowed either in whole or in part, and that all documents or things in the demanded category that are in the possession, custody, or control of that party and to which no objection is being made will be included in the production.

Any documents demanded shall either be produced as they are kept in the usual course of business, or be organized and labeled to correspond with the categories in the demand. If necessary, the responding party at the reasonable expense of the demanding party shall, through detection devices, translate any data compilations included in the demand into reasonably usable form.

(2) A representation of inability to comply with the particular demand for inspection shall affirm that a diligent search and a reasonable inquiry has been made in an effort to comply with that

demand. This statement shall also specify whether the inability to comply is because the particular item or category has never existed, has been destroyed, has been lost, misplaced, or stolen, or has never been, or is no longer, in the possession, custody, or control of the responding party. The statement shall set forth the name and address of any natural person or organization known or believed by that party to have possession, custody, or control of that item or category of item.

(3) If only part of an item or category of item in an inspection demand is objectionable, the response shall contain a statement of compliance, or a representation of inability to comply with respect to the remainder of that item or category. If the responding party objects to the demand for inspection of an item or category of item, the response shall (A) identify with particularity any document, tangible thing, or land falling within any category of item in the demand to which an objection is being made, and (B) set forth clearly the extent of, and the specific ground for, the objection. If an objection is based on a claim of privilege, the particular privilege invoked shall be stated. If an objection is based on a claim that the information sought is protected work product under Section 2018, that claim shall be expressly asserted.

(g) The party to whom the demand for inspection is directed shall sign the response under oath unless the response contains only objections. If that party is a public or private corporation or a partnership or association or governmental agency, one of its officers or agents shall sign the response under oath on behalf of that party. If the officer or agent signing the response on behalf of that party is an attorney acting in that capacity for a party, that party waives any lawyer-client privilege and any protection for work product under Section 2018 during any subsequent discovery from that attorney concerning the identity of the sources of the information contained in the response. The attorney for the responding party shall sign any responses that contain an objection.

(h) Within 20 days after service of an inspection demand, or in unlawful detainer actions within five days of an inspection demand, the party to whom the demand is directed shall serve the original of the response to it on the party making the demand, and a copy of the response on all other parties who have appeared in the action, unless on motion of the party making the demand the court has shortened the time for response, or unless on motion of the party to whom the demand has been directed, the court has extended the time for response. In unlawful detainer actions, the party to whom the demand is directed shall have at least five days from the date of service of the demand to respond unless on motion of the party making the demand the court has shortened the time for the response.

(i) The party demanding an inspection and the responding party may agree to extend the time for service of a response to a set of inspection demands, or to particular items or categories of items in

a set, to a date beyond that provided in subdivision (h). This agreement may be informal, but it shall be confirmed in a writing that specifies the extended date for service of a response. Unless this agreement expressly states otherwise, it is effective to preserve to the responding party the right to respond to any item or category of item in the demand to which the agreement applies in any manner specified in subdivision (f).

(j) The inspection demand and the response to it shall not be filed with the court. The party demanding an inspection shall retain both the original of the inspection demand, with the original proof of service affixed to it, and the original of the sworn response until six months after final disposition of the action. At that time, both originals may be destroyed, unless the court, on motion of any party and for good cause shown, orders that the originals be preserved for a longer period.

(k) If a party to whom an inspection demand has been directed fails to serve a timely response to it, that party waives any objection to the demand, including one based on privilege or on the protection for work product under Section 2018. However, the court, on motion, may relieve that party from this waiver on its determination that (1) the party has subsequently served a response that is in substantial compliance with subdivision (f), and (2) the party's failure to serve a timely response was the result of mistake, inadvertence, or excusable neglect.

The party making the demand may move for an order compelling response to the inspection demand. The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel a response to an inspection demand, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust. If a party then fails to obey the order compelling a response, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023. In lieu of or in addition to that sanction, the court may impose a monetary sanction under Section 2023.

(*l*) If the party demanding an inspection, on receipt of a response to an inspection demand, deems that (1) a statement of compliance with the demand is incomplete, (2) a representation of inability to comply is inadequate, incomplete, or evasive, or (3) an objection in the response is without merit or too general, that party may move for an order compelling further response to the demand. This motion (1) shall set forth specific facts showing good cause justifying the discovery sought by the inspection demand, and (2) shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of any issue presented by it.

Unless notice of this motion is given within 45 days of the service of the response, or any supplemental response, or on or before any

specific later date to which the demanding party and the responding party have agreed in writing, the demanding party waives any right to compel a further response to the inspection demand.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel further response to an inspection demand, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

If a party fails to obey an order compelling further response, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023. In lieu of or in addition to that sanction, the court may impose a monetary sanction under Section 2023.

(m) If a party filing a response to a demand for inspection under subdivision (f) thereafter fails to permit the inspection in accordance with that party's statement of compliance, the party demanding the inspection may move for an order compelling compliance.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel compliance with an inspection demand, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

If a party then fails to obey an order compelling inspection, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023. In lieu of or in addition to that sanction, the court may impose a monetary sanction under Section 2023.

SEC. 13. Section 2033 of the Code of Civil Procedure is amended to read:

2033. (a) Any party may obtain discovery within the scope delimited by Section 2017, and subject to the restrictions set forth in Section 2019, by a written request that any other party to the action admit the genuineness of specified documents, or the truth of specified matters of fact, opinion relating to fact, or application of law to fact. A request for admission may relate to a matter that is in controversy between the parties.

(b) A defendant may make requests for admission by a party without leave of court at any time. A plaintiff may make requests for admission by a party without leave of court at any time that is 10 days after the service of the summons on, or, in unlawful detainer actions, five days after the service of the summons on, or appearance by, that party, whichever occurs first. However, on motion with or without notice, the court, for good cause shown, may grant leave to a plaintiff to make requests for admission at an earlier time.

(c) (1) No party shall request, as a matter of right, that any other party admit more than 35 matters that do not relate to the genuineness of documents. If the initial set of admission requests

does not exhaust this limit, the balance may be requested in subsequent sets. Unless a declaration as described in paragraph (3) has been made, a party need only respond to the first 35 admission requests served that do not relate to the genuineness of documents, if that party states an objection to the balance under paragraph (2) of subdivision (f) on the ground that the limit has been exceeded.

The number of requests for admission of the genuineness of documents is not limited except as justice requires to protect the responding party from unwarranted annoyance, embarrassment, oppression, or undue burden and expense.

(2) Subject to the right of the responding party to seek a protective order under subdivision (e), any party who attaches a supporting declaration as described in paragraph (3) may request a greater number of admissions by another party if the greater number is warranted by the complexity or the quantity of the existing and potential issues in the particular case.

If the responding party seeks a protective order on the ground that the number of requests for admission is unwarranted, the propounding party shall have the burden of justifying the number of requests for admission.

(3) Any party who is requesting or who has already requested more than 35 admissions not relating to the genuineness of documents by any other party shall attach to each set of requests for admissions a declaration containing substantially the following words:

DECLARATION FOR ADDITIONAL DISCOVERY

I, _____, declare:

1. I am (a party to this action or proceeding appearing in propria persona) (presently the attorney for _____, a party to this action or proceeding).

2. I am propounding to _____ the attached set of requests for admission.

3. This set of requests for admission will cause the total number of requests propounded to the party to whom they are directed to exceed the number of requests permitted by paragraph (1) of subdivision (c) of Section 2033 of the Code of Civil Procedure.

4. I have previously propounded a total of _____ requests for admission to this party.

5. This set of requests for admission contains a total of _____ requests.

6. I am familiar with the issues and the previous discovery conducted by all of the parties in this case.

7. I have personally examined each of the requests in this set of requests for admission.

8. This number of requests for admission is warranted under paragraph (2) of subdivision (c) of Section 2033 of the Code of Civil Procedure because _____. (Here state the reasons why the

complexity or the quantity of issues in the instant lawsuit warrant this number of requests for admission.)

9. None of the requests in this set of requests is being propounded for any improper purpose, such as to harass the party, or the attorney for the party, to whom it is directed, or to cause unnecessary delay or needless increase in the cost of litigation.

I declare under penalty of perjury under the laws of California that the foregoing is true and correct, and that this declaration was executed on _____.

_____
(Signature)

Attorney for _____

(4) A party requesting admissions shall number each set of requests consecutively. In the first paragraph immediately below the title of the case, there shall appear the identity of the party requesting the admissions, the set number, and the identity of the requesting party, the set number, and the identity of the responding party. Each request for admission in a set shall be separately set forth and identified by letter or number.

(5) Each request for admission shall be full and complete in and of itself. No preface or instruction shall be included with a set of admission requests unless it has been approved under Section 2033.5. Any term specially defined in a request for admission shall be typed with all letters capitalized whenever the term appears. No request for admission shall contain subparts, or a compound, conjunctive, or disjunctive request unless it has been approved under Section 2033.5.

(6) A party requesting an admission of the genuineness of any documents shall attach copies of those documents to the requests, and shall make the original of those documents available for inspection on demand by the party to whom the requests for admission are directed.

(7) No party shall combine in a single document requests for admission with any other method of discovery.

(d) The party requesting admissions shall serve a copy of them on the party to whom they are directed and on all other parties who have appeared in the action.

(e) When requests for admission have been made, the responding party may promptly move for a protective order. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion.

The court, for good cause shown, may make any order that justice requires to protect any party from unwarranted annoyance, embarrassment, oppression, or undue burden and expense. This protective order may include, but is not limited to, one or more of the following directions:

(1) That the set of admission requests, or particular requests in the set, need not be answered at all.

(2) That, contrary to the representations made in a declaration submitted under paragraph (3) of subdivision (c), the number of admission requests is unwarranted.

(3) That the time specified in subdivision (h) to respond to the set of admission requests, or to particular requests in the set, be extended.

(4) That a trade secret or other confidential research, development, or commercial information not be admitted or be admitted only in a certain way.

(5) That some or all of the answers to requests for admission be sealed and thereafter opened only on order of the court.

If the motion for a protective order is denied in whole or in part, the court may order that the responding party provide or permit the discovery against which protection was sought on terms and conditions that are just.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion for a protective order, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(f) The party to whom requests for admission have been directed shall respond in writing under oath separately to each request. Each response shall answer the substance of the requested admission, or set forth an objection to the particular request. In the first paragraph of the response immediately below the title of the case, there shall appear the identity of the responding party, the set number, and the identity of the requesting party. Each answer or objection in the response shall bear the same identifying number or letter and be in the same sequence as the corresponding request, but the text of the particular request need not be repeated.

(1) Each answer in the response shall be as complete and straightforward as the information reasonably available to the responding party permits. Each answer shall (A) admit so much of the matter involved in the request as is true, either as expressed in the request itself or as reasonably and clearly qualified by the responding party, (B) deny so much of the matter involved in the request as is untrue, and (C) specify so much of the matter involved in the request as to the truth of which the responding party lacks sufficient information or knowledge. If a responding party gives lack of information or knowledge as a reason for a failure to admit all or part of a request for admission, that party shall state in the answer that a reasonable inquiry concerning the matter in the particular request has been made, and that the information known or readily obtainable is insufficient to enable that party to admit the matter.

(2) If only a part of a request for admission is objectionable, the remainder of the request shall be answered. If an objection is made to a request or to a part of a request, the specific ground for the objection shall be set forth clearly in the response. If an objection is based on a claim of privilege, the particular privilege invoked shall

be clearly stated. If an objection is based on a claim that the matter as to which an admission is requested is protected work product under Section 2018, that claim shall be expressly asserted.

(g) The party to whom the requests for admission are directed shall sign the response under oath, unless the response contains only objections. If that party is a public or private corporation, or a partnership or association or governmental agency, one of its officers or agents shall sign the response under oath on behalf of that party. If the officer or agent signing the response on behalf of that party is an attorney acting in that capacity for the party, that party waives any lawyer-client privilege and any protection for work product under Section 2018 during any subsequent discovery from that attorney concerning the identity of the sources of the information contained in the response. The attorney for the responding party shall sign any response that contains an objection.

(h) Within 30 days after service of requests for admission, or in unlawful detainer actions within five days after service of requests for admission, the party to whom the requests are directed shall serve the original of the response to them on the requesting party, and a copy of the response on all other parties who have appeared, unless on motion of the requesting party the court has shortened the time for response, or unless on motion of the responding party the court has extended the time for response. In unlawful detainer actions, the party to whom the request is directed shall have at least five days from the date of service to respond unless on motion of the requesting party the court has shortened the time for response.

(i) The party requesting admissions and the responding party may agree to extend the time for service of a response to a set of admission requests, or to particular requests in a set, to a date beyond that provided in subdivision (h). This agreement may be informal, but it shall be confirmed in a writing that specifies the extended date for service of a response. Unless this agreement expressly states otherwise, it is effective to preserve to the responding party the right to respond to any request for admission to which the agreement applies in any manner specified in subdivision (f). Notice of this agreement shall be given by the responding party to all other parties who were served with a copy of the request.

(j) The requests for admission and the response to them shall not be filed with the court. The party requesting admissions shall retain both the original of the requests for admission, with the original proof of service affixed to them, and the original of the sworn response until six months after final disposition of the action. At that time, both originals may be destroyed, unless the court, on motion of any party and for good cause shown, orders that the originals be preserved for a longer period.

(k) If a party to whom requests for admission have been directed fails to serve a timely response, that party thereby waives any objection to the requests, including one based on privilege or on the protection for work product under Section 2018. However, the court,

on motion, may relieve that party from this waiver on its determination that (1) the party has subsequently served a response that is in substantial compliance with subdivision (f), and (2) the party's failure to serve a timely response was the result of mistake, inadvertence, or excusable neglect.

The requesting party may move for an order that the genuineness of any documents and the truth of any matters specified in the requests be deemed admitted, as well as for a monetary sanction under Section 2023. The court shall make this order, unless it finds that the party to whom the requests for admission have been directed has served, before the hearing on the motion, a proposed response to the requests for admission that is in substantial compliance with paragraph (1) of subdivision (f). It is mandatory that the court impose a monetary sanction under Section 2023 on the party or attorney, or both, whose failure to serve a timely response to requests for admission necessitated this motion.

(*l*) If the party requesting admissions, on receipt of a response to the requests, deems that (1) an answer to a particular request is evasive or incomplete, or (2) an objection to a particular request is without merit or too general, that party may move for an order compelling a further response. The motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion.

Unless notice of this motion is given within 45 days of the service of the response, or any supplemental response, or any specific later date to which the requesting party and the responding party have agreed in writing, the requesting party waives any right to compel further response to the requests for admission.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel further response, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

If a party then fails to obey an order compelling further response to requests for admission, the court may order that the matters involved in the requests be deemed admitted. In lieu of or in addition to this order, the court may impose a monetary sanction under Section 2023.

(m) A party may withdraw or amend an admission made in response to a request for admission only on leave of court granted after notice to all parties. The court may permit withdrawal or amendment of an admission only if it determines that the admission was the result of mistake, inadvertence, or excusable neglect, and that the party who obtained the admission will not be substantially prejudiced in maintaining that party's action or defense on the merits. The court may impose conditions on the granting of the motion that are just, including, but not limited to, an order that (1) the party who obtained the admission be permitted to pursue

additional discovery related to the matter involved in the withdrawn or amended admission, and (2) the costs of any additional discovery be borne in whole or in part by the party withdrawing or amending the admission.

(n) Any matter admitted in response to a request for admission is conclusively established against the party making the admission in the pending action, unless the court has permitted withdrawal or amendment of that admission under subdivision (m). However, any admission made by a party under this section is (1) binding only on that party, and (2) made for the purpose of the pending action only. It is not an admission by that party for any other purpose, and it shall not be used in any manner against that party in any other proceeding.

(o) If a party fails to admit the genuineness of any document or the truth of any matter when requested to do so under this section, and if the party requesting that admission thereafter proves the genuineness of that document or the truth of that matter, the party requesting the admission may move the court for an order requiring the party to whom the request was directed to pay the reasonable expenses incurred in making that proof, including reasonable attorney's fees. The court shall make this order unless it finds that (1) an objection to the request was sustained or a response to it was waived under subdivision (*l*), (2) the admission sought was of no substantial importance, (3) the party failing to make the admission had reasonable ground to believe that that party would prevail on the matter, or (4) there was other good reason for the failure to admit.

SEC. 14. Section 1560 of the Evidence Code is amended to read:

1560. (a) As used in this article:

(1) "Business" includes every kind of business described in Section 1270.

(2) "Record" includes every kind of record maintained by such a business.

(b) Except as provided in Section 1564, when a subpoena duces tecum is served upon the custodian of records or other qualified witness of a business in an action in which the business is neither a party nor the place where any cause of action is alleged to have arisen, and the subpoena requires the production of all or any part of the records of the business, it is sufficient compliance therewith if the custodian or other qualified witness, within five days after the receipt of the subpoena in any criminal action or within the time agreed upon by the party who served the subpoena and the custodian or other qualified witness, or within 15 days after the receipt of the subpoena in any civil action or within the time agreed upon by the party who served the subpoena and the custodian or other qualified witness, delivers by mail or otherwise a true, legible, and durable copy of all the records described in the subpoena to the clerk of the court or to the judge if there be no clerk or to such other person as described in subdivision (c) of Section 2026 of the Code of

Civil Procedure, together with the affidavit described in Section 1561.

(c) The copy of the records shall be separately enclosed in an inner envelope or wrapper, sealed, with the title and number of the action, name of witness, and date of subpoena clearly inscribed thereon; the sealed envelope or wrapper shall then be enclosed in an outer envelope or wrapper, sealed, and directed as follows:

(1) If the subpoena directs attendance in court, to the clerk of such court, or to the judge thereof if there be no clerk.

(2) If the subpoena directs attendance at a deposition, to the officer before whom the deposition is to be taken, at the place designated in the subpoena for the taking of the deposition or at the officer's place of business.

(3) In other cases, to the officer, body, or tribunal conducting the hearing, at a like address.

(d) Unless the parties to the proceeding otherwise agree, or unless the sealed envelope or wrapper is returned to a witness who is to appear personally, the copy of the records shall remain sealed and shall be opened only at the time of trial, deposition, or other hearing, upon the direction of the judge, officer, body, or tribunal conducting the proceeding, in the presence of all parties who have appeared in person or by counsel at the trial, deposition, or hearing. Records which are original documents and which are not introduced in evidence or required as part of the record shall be returned to the person or entity from whom received. Records which are copies may be destroyed.

(e) As an alternative to the procedures described in subdivisions (b), (c), and (d), the subpoenaing party may direct the witness to make the records available for inspection or copying by the party's attorney or the attorney's representative at the witness' business address under reasonable conditions during normal business hours. It shall be the responsibility of the attorney's representative to deliver any copy of the records as directed in the subpoena.

SEC. 15. Section 26849.1 of the Government Code is amended to read:

26849.1. The fee for filing, canceling, revoking, or withdrawing the bond of a notary public is seven dollars ($7).

The recording fee for the notice of cancellation, revocation, or withdrawal and any related document by the surety shall be paid to the county clerk, who shall transmit it to the county recorder.

SEC. 16. Section 26883 of the Government Code is amended to read:

26883. In addition to the power now possessed by the board of supervisors to enter into contracts for audits the board shall have the power to require that the county auditor-controller shall audit the accounts and records of any department, office, board or institution under its control and of any district whose funds are kept in the county treasury. The county auditor-controller's report on any such audit shall be filed with the board of supervisors and, if the report

discloses fraud or gross negligence a copy thereof shall be filed with the district attorney.

The governing body of any district may agree with the board of supervisors to reimburse the county for its actual cost of any audit of its accounts and records had under this section.

SEC. 17. Section 29390 of the Government Code is amended to read:

29390. The board of supervisors may, by a resolution incorporating such limitations and safeguards as may be deemed in the best interests of the county, provide that county officers and employees who are responsible for receiving and paying out money may be relieved of shortages in their accounts, where there is no proof of fraud or gross negligence in connection with the shortage and where the loss is not covered by insurance. If the board of supervisors after an investigation and report by the county auditor approves the coverage of such shortage, it shall be entered in its minutes and shall be a charge against the general fund of the county.

SEC. 18. Section 69504.6 of the Government Code is amended to read:

69504.6. (a) Notwithstanding any other provisions of law, the clerk of the superior court may record on microform as defined in Section 69503, including electronic imaging equipment, pleadings, motions, instruments, books, depositions, transcripts, minute orders, and any other material on file with the superior court. A duplicate copy of any record reproduced on electronic imaging equipment and certified by the clerk of the court, which meets the minimum standards or guidelines recommended by the American National Standards Institute or the Association for Information and Image Management, shall be deemed an original. No additions, deletions, or changes to an original record stored on microform, including electronic imaging equipment are permitted.

(b) The originals of all papers and records copied as provided in subdivision (a) may be destroyed in conformity with Section 69503. The reproduced copies shall be deemed to be the original records of the court.

SEC. 19. Section 69844.5 of the Government Code is amended to read:

69844.5. The clerk of the superior court may, in lieu of minute books, judgment books and orders and decrees, photograph, microphotograph, photocopy, or electronically image all superior court minutes, judgments, orders and decrees.

Such photograph, microphotograph, photocopy, or electronic image shall be made in a manner that meets the minimum standards or guidelines recommended by the American National Standards Institute or the Association for Information and Image Management.

Every such reproduction shall be deemed and considered an original; and a transcript, exemplification, or certified copy of any such reproduction shall be deemed and considered an original.

All such photographs, microphotographs, photocopies, and

electronic images shall be properly indexed and placed in accessible files. Each roll of microfilm shall constitute a book, shall be numbered, and provisions shall be made for its preservation and examination.

The original copy of each roll of microfilm shall be stored in a separate location. Original copies of microfilm shall be stored in a manner and place that reasonably assures their preservation indefinitely against loss, theft, defacement, or destruction.

SEC. 20. Section 69845.5 of the Government Code is amended to read:

69845.5. In lieu of maintaining a register of actions as described in Section 69845, the clerk of the superior court may maintain a register of actions by means of photographing, microphotographing, or mechanically or electronically storing the content of all papers and records listed in subdivision (e) of Section 69503.

All such reproductions shall be placed in accessible files, and provisions shall be made for their preservation and examination.

Any photograph, microphotograph, photocopy or electronic image which is made pursuant to this section shall be made in a manner that meets the minimum standards or guidelines recommended by the American National Standards Institute or the Association for Information and Image Management.

SEC. 21. Section 70048 of the Government Code is amended to read:

70048. (a) In a county with a population of 1,300,000 and under 1,400,000, as determined by the 1970 federal census, regular official reporters shall be paid at a salary rate established by joint action and approval of the board of supervisors and a majority of the judges of the court.

Except as provided herein, the initial hiring rate for each position shall be step A, provided further, however, the judges of the superior court may appoint any such court reporter at a higher initial step if in the opinion of the judges of the superior court an individual to be appointed has such experience and qualification as to entitle that individual to such higher initial step. A step advancement from step A to step B may be granted on the first day of the month following the completion of 12 full months of service in the position. A person may advance to steps C, D, and E upon completion of successive 12-month periods of service. All merit increases as provided herein shall be made at the determination of the judges of the superior court. A court reporter employed prior to November 15, 1977, and currently employed shall receive a monthly and annual salary at step E.

(b) Official phonographic reporters pro tempore shall be compensated at a rate established by joint action and approval of the board of supervisors and a majority of the judges of the court.

(c) Each reporter shall cooperate with county personnel in any random job reviews for the purpose of confirming hours spent in attendance upon the courts for the purpose of reporting

proceedings.

(d) During the hours which the court is open for the transaction of judicial business, official reporters shall devote full time to the performance of the duties required of them by law and shall not engage in or solicit to engage in any other employment in their professional capacity.

SEC. 22. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1091

An act to amend Sections 800, 801, 2224, 2936, 2964.5, 3501, 3504, 4927, 6636, 11422, 17508.5, 17511.3, and 25503.26 of, and to amend and renumber Section 19445 of, the Business and Professions Code, to amend Section 4390.3 of, and to amend and renumber Section 798.41 of, the Civil Code, to amend Section 585.1 of the Code of Civil Procedure, to amend Section 301.5 of the Corporations Code, to amend Sections 8952.5, 24205, 32261, 48204.1, 51873.5, 72247.3, 78032, and 94319.10 of, and to amend and renumber Sections 56244 and 66915 of, the Education Code, to amend Sections 1901, 15151, 22208, 24208, and 26208 of, and to amend and renumber Section 5307 of, the Financial Code, to amend Sections 13150, 14978, 41207, and 75552 of, to amend the heading of Article 6 (commencing with Section 41251) of Chapter 3 of Division 16 of, and to amend and renumber Sections 13060 and 13061 of, the Food and Agricultural Code, to amend Sections 11373.3, 15819.24, 25905, 31602, 65850.2, 65852.6, 65915, and 77301 of, to amend and renumber Sections 13540, 13541, 13542, 14555.52, 15373.96, 16419, 53086, 65590, 65591, and 69908 of, to amend and renumber the heading of Article 3.5 (commencing with Section 13540) of Chapter 1 of Part 6.7 of Division 3 of Title 2 of, and the heading of Article 7.7 (commencing with Section 16419) of Chapter 2 of Part 2 of Division 4 of Title 2 of, to repeal Sections 8684, 13307, and 66532 of, and to repeal Part 8 (commencing with Section 997) of Division 3.6 of Title 1 of, Article 3.5 (commencing with Section 13540) of Chapter 1 of Part 6.7 of Division 3 of Title 2 of, Article 6 (commencing with Section 15373.96) of Chapter 2.5 of Part 6.7 of Division 3 of Title 2 of, and Article 7.7 (commencing with Section

16419) of Chapter 2 of Part 2 of Division 4 of Title 2 of, the Government Code, to amend Sections 1397, 1568.12, 11776.5, 13143.5, 25281.5, 26569.30, 26569.40, 28518.8, and 50781 of, to amend and renumber Sections 1199.200, 1199.201, 1794, 1794.2, 1794.4, 1794.6, 1794.8, 1794.10, 1794.12, 1794.14, 1794.16, 1794.18, 1794.20, 1794.22, 1794.24, 1794.26, 1794.28, 1794.30, 1794.32, 1794.34, 1794.36, 1794.38, 1794.40, 11755.5, and 22547.2 of, to repeal Sections 13143.2, 13143.5, 13869.7, and 50661.7 of, and to repeal Part 1.6 (commencing with Section 34050) of Division 24 of, and Part 4 (commencing with Section 35450) of Division 24 of, the Health and Safety Code, to amend Sections 5002, 5002.5, and 10086 of, and to amend and renumber Sections 5004, 10119.1, and 12205 of, the Insurance Code, to amend Section 394 of the Military and Veterans Code, to amend Sections 193.7, 270h, and 12028 of, and to repeal Title 7 (commencing with Section 14000) of Part 4 of, the Penal Code, to amend Section 10365.5 of, to amend and renumber Sections 7103, 7104, and 20920 of, and to amend and renumber the heading of Article 60.5 (commencing with Section 20920) of Chapter 1 of Part 3 of Division 2 of, the Public Contract Code, to amend Sections 8754, 30511, 42100, and 45002 of, and to amend and renumber Sections 2599.6, 3787, 41825, and 44817 of, the Public Resources Code, to amend Sections 5411.5, 130450, and 130452 of, to amend the heading of Article 10 (commencing with Section 130450) of Chapter 4 of Division 12 of, and to repeal Section 782 of, the Public Utilities Code, to amend Sections 97, 6357.5, 11005.3, and 24570 of, to amend and renumber Sections 7285, 7286, 12636, 25940, and 43152.9 of, and to repeal Sections 3964, 6051.1, 6201.1, 6376, 12637, 43158, and 45156 of, the Revenue and Taxation Code, to repeal Section 162.5 of, and to repeal Article 4.8 (commencing with Section 179) of Chapter 1 of Division 1 of, the Streets and Highways Code, to amend and renumber Section 15031 of, and to repeal Section 305.5 of, the Unemployment Insurance Code, to amend Sections 11713.1, 23175, and 23190 of the Vehicle Code, to amend Section 13391.5 of the Water Code, and to amend Sections 11461, 13700, 14085.5, and 18425 of the Welfare and Institutions Code, relating to the maintenance of the codes.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 800 of the Business and Professions Code is amended to read:

800. (a) The Medical Board of California, the Board of Dental Examiners, the Board of Osteopathic Examiners, the Board of Chiropractic Examiners, the California Board of Registered Nursing, the Board of Vocational Nurse and Psychiatric Technician Examiners, the State Board of Optometry, the Board of Examiners in Veterinary Medicine, and the State Board of Pharmacy shall each

separately create and maintain a central file of the names of all persons who hold a license, certificate or similar authority from such board. Each such central file shall be so created and maintained as to provide an individual historical record for each such person with respect to (1) any conviction of a crime in this or any other state which constitutes unprofessional conduct pursuant to the reporting requirements of Section 803; (2) any judgment or settlement requiring the person or his or her insurer to pay any amount of damages in excess of three thousand dollars ($3,000) with respect to any claim that injury or death was proximately caused by such person's negligence, error or omission in practice or rendering of unauthorized professional services, pursuant to the reporting requirements of Section 801 or 802; (3) any public complaints for which provision is hereinafter made, pursuant to subdivision (b) of this section; and (4) any disciplinary information reported pursuant to Section 805.

(b) Each such board shall prescribe and promulgate forms on which members of the public and other licensees or certificate holders may file written complaints to the board alleging any act of misconduct in or connected with the performance of professional services by such person.

If a board, or division thereof, a committee, or a panel has failed to act upon a complaint or report within five years, or has found that the complaint or report is without merit, the central file shall be purged of information relating to the complaint or report.

(c) The contents of any central file which are not public records under any other provision of law shall be confidential except that the licensee involved or his or her counsel or representative shall have the right to inspect and have copies made of his or her complete file except for the provision that may disclose the identity of an information source. For the purposes of this section, a board may protect an information source by providing a copy of the text of the material with only those deletions as are necessary to protect the identity of the source or by providing a comprehensive summary of the substance of the material. Whichever method is used, the board shall ensure that full disclosure is made to the subject of any personal information that could reasonably in any way reflect or convey anything detrimental, disparaging, or threatening to an individual's reputation, rights, benefits, privileges, or qualifications, or be used by a board to make a determination that would affect an individual's rights, benefits, privileges, or qualifications.

The licensee may, but is not required to, submit any additional exculpatory or explanatory statement or other information which the board shall include in the central file.

Each board may permit any law enforcement or regulatory agency when required for an investigation of unlawful activity or for licensing, certification, or regulatory purposes to inspect and have copies made of that licensee's file, unless the disclosure is otherwise prohibited by law.

These disclosures shall effect no change in the confidential status of these records.

SEC. 2. Section 801 of the Business and Professions Code is amended to read:

801. (a) Every insurer providing professional liability insurance to a person who holds a license, certificate or similar authority from or under any agency mentioned in subdivision (a) of Section 800 (except a person licensed pursuant to Chapter 3 (commencing with Section 1200) or Chapter 5 (commencing with Section 2000) of Division 2) or the Osteopathic Initiative Act shall send a complete report to that agency as to any settlement or arbitration award over three thousand dollars ($3,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error or omission in practice, or rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(b) Every insurer providing professional liability insurance to a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 or the Osteopathic Initiative Act shall send a complete report to the Medical Board of California or the Board of Osteopathic Examiners, as appropriate, as to any settlement or arbitration award over thirty thousand dollars ($30,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error or omission in practice, or rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(c) Every insurer providing professional liability insurance to a person licensed pursuant to Chapter 13 (commencing with Section 4980) or Chapter 14 (commencing with Section 4990) shall send a complete report to the Board of Behavioral Science Examiners as to any settlement or arbitration award over ten thousand dollars ($10,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(d) Notwithstanding any other provision of law, no insurer shall enter into such a settlement without the written consent of the insured, except that this prohibition shall not void any settlement entered into without that written consent. The requirement of written consent can only be waived by both the insured and the insurer. This section shall only apply to a settlement on a policy of insurance executed or renewed on or after January 1, 1971.

SEC. 3. Section 2224 of the Business and Professions Code is

amended to read:

2224. The Division of Medical Quality may delegate the authority under this chapter to conduct investigations and inspections and to institute proceedings to the executive director of the board or such other personnel as set forth in Section 2020, but shall not delegate its authority to take final disciplinary action against a licensee as provided in Section 2227 and other provisions of this chapter, and may not delegate any authority of the Senior Assistant Attorney General of the Health Quality Enforcement Section, and may not delegate any powers vested in the administrative law judges of the Office of Administrative Hearings, as designated in Section 11371 of the Government Code.

SEC. 4. Section 2936 of the Business and Professions Code is amended to read:

2936. The board shall by rule or regulation, establish standards of ethical conduct relating to the practice of psychology.

The board shall periodically evaluate the relevancy and efficacy of the standards.

In establishing these standards, the board may consider codes of ethics of relevant professional organizations, information and complaints regarding issues of ethical conduct from consumers of psychological services and other providers of mental health services. The board shall adopt a program of consumer and professional education in matters relevant to the ethical practice of psychology.

The adoption, amendment, or repeal of such rules or regulations shall be made in accordance with Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

To facilitate consumers in receiving appropriate psychological services, all licensees and registrants shall be required to post, in a conspicuous location, a notice which reads as follows:

"NOTICE: The Department of Consumer Affairs receives questions and complaints regarding the practice of psychology. If you have any questions or complaints, you may contact this department by calling (insert appropriate regional number) or (insert appropriate telephone number), or by writing to the following address:

Medical Board of California
Allied Health Complaints
1430 Howe Avenue
Sacramento, California 95825"

SEC. 5. Section 2964.5 of the Business and Professions Code is amended to read:

2964.5. The board at its discretion may require any licensee placed on probation or whose license is suspended, to obtain additional professional training, to pass an examination upon the

completion of that training, and to pay the necessary examination fee. The examination may be written or oral or both, and may include a practical or clinical examination.

SEC. 6. Section 3501 of the Business and Professions Code is amended to read:

3501. As used in this chapter:

(a) "Board" means the Division of Allied Health Professions of the Medical Board of California of the State of California.

(b) "Approved program" means a program for the education of physician assistants which has been formally approved by the committee.

(c) "Trainee" means a person who is currently enrolled in an approved program.

(d) "Physician assistant" means a person who meets the requirements of this chapter and is licensed by the committee.

(e) "Committee" or "examining committee" means the Physician Assistant Examining Committee.

(f) "Regulations" means the rules and regulations as contained in Chapter 13.8 (commencing with Section 1399.500) of Title 16 of the California Code of Regulations.

(g) "Routine visual screening" means uninvasive nonpharmacological simple testing for visual acuity, visual field defects, color blindness, and depth perception.

SEC. 7. Section 3504 of the Business and Professions Code is amended to read:

3504. There is established a Physician Assistant Examining Committee of the Medical Board of California. The committee consists of nine members.

SEC. 8. Section 4927 of the Business and Professions Code is amended to read:

4927. As used in this chapter, unless the context otherwise requires:

(a) "Committee" means the Acupuncture Committee.

(b) "Board" means the Division of Allied Health Professions of the Medical Board of California.

(c) "Person" means any individual, organization, or corporate body, except that only individuals may be licensed under this chapter.

(d) "Acupuncturist" means an individual to whom a license has been issued to practice acupuncture pursuant to this chapter, which is in effect and is not suspended or revoked.

(e) "Acupuncture" means the stimulation of a certain point or points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain diseases or dysfunctions of the body and includes the techniques of electroacupuncture, cupping, and moxibustion.

SEC. 9. Section 6636 of the Business and Professions Code, as added by Section 12 of Chapter 1673 of the Statutes of 1990, is

amended to read:

6636. The amount of the fees payable in connection with certificate of registration as an instructor in a barber college is as follows:

(a) The application fee shall be fixed by the board at not more than twenty dollars ($20).

(b) The examination fee shall be fixed by the board at not more than seventy dollars ($70).

(c) The fee for issuance of a certificate is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued, except that, if the certificate will expire less than one year after its issuance, then the fee is 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued.

(d) The renewal fee for the biennial renewal period shall be fixed by the board at not more than sixty dollars ($60).

(e) The restoration fee is an amount equal to 150 percent of the renewal fee in effect when the application for restoration is filed.

(f) This section shall become operative on January 1, 1992.

SEC. 10. Section 11422 of the Business and Professions Code is amended to read:

11422. (a) The office shall, on or before July 1, 1991, and at least annually thereafter, transmit to the appraisal subcommittee specified in subdivision (d) of Section 11302 a roster of persons licensed or certified pursuant to this part.

(b) Every real estate appraiser or certified real estate appraiser that performs or seeks to perform an appraisal in a federally related transaction shall pay to the office for transmission to the appraisal subcommittee specified in subdivision (d) of Section 11302 a fee specified by that subcommittee.

A receipt evidencing payment of the fee shall be displayed with the real estate appraiser license or certificate, as the case may be, of any person performing or seeking to perform appraisal activity regulated by this part.

(c) The office may also assess a fee sufficient to equitably apportion and defray the cost of administering this section. The fee shall be paid prior to performing or seeking to perform an appraisal.

SEC. 11. Section 17508.5 of the Business and Professions Code is amended to read:

17508.5. It is unlawful for any person to represent that any consumer good which it manufactures or distributes is "ozone friendly," or any like term which connotes that stratospheric ozone is not being depleted, "biodegradable," "photodegradable," "recyclable," or "recycled" unless that consumer good meets the definitions contained in this section, or meets definitions established in trade rules adopted by the Federal Trade Commission. For the purposes of this section, the following words have the following meanings:

(a) "Ozone friendly," or any like term which connotes that

stratospheric ozone is not being depleted, means that any chemical or material released into the environment as a result of the use or production of a product will not migrate to the stratosphere and cause unnatural and accelerated deterioration of ozone.

(b) "Biodegradable" means that a material has the proven capability to decompose in the most common environment where the material is disposed within one year through natural biological processes into nontoxic carbonaceous soil, water, or carbon dioxide.

(c) "Photodegradable" means that a material has the proven capability to decompose in the most common environment where the material is disposed within one year through physical processes, such as exposure to heat and light, into nontoxic carbonaceous soil, water, or carbon dioxide.

(d) "Recyclable" means that an article can be conveniently recycled, as defined in Section 40180 of the Public Resources Code, in every county in California with a population over 300,000 persons. For the purposes of this subdivision, "conveniently recycled" shall not mean that a consumer good may be recycled in a convenience zone as defined in Section 14509.4 of the Public Resources Code.

(e) "Recycled" means that an article's contents contain at least 10 percent, by weight, postconsumer material, as defined in subdivision (b) of Section 12200 of the Public Contract Code.

(f) "Consumer good" means any article which is used or bought for use primarily for personal, family, or household purposes.

(g) For the purposes of this section, a wholesaler or retailer who does not initiate a representation by advertising or by placing the representation on a package shall not be deemed to have made the representation.

SEC. 12. Section 17511.3 of the Business and Professions Code is amended to read:

17511.3. (a) Not less than 10 days prior to doing business in this state, a telephonic seller shall register with the department by filing with the Consumer Law Section of the department the information required by Section 17511.4 and a filing fee of fifty dollars ($50). A seller shall be deemed to do business in this state if the seller solicits prospective purchasers from locations in this state or solicits prospective purchasers who are located in this state.

A person claiming an exemption pursuant to paragraph (19) of subdivision (d) of Section 17511.1 shall file with the Consumer Law Section of the department, in lieu of the information required by subdivisions (a) to (o), inclusive, of Section 17511.4, the information required by subdivision (p) of Section 17511.4 and a filing fee of fifty dollars ($50).

The information required by Section 17511.4 shall be submitted on a form provided by the Attorney General and shall be verified by a declaration signed by each principal of the telephonic seller under penalty of perjury. The declaration shall specify the date and location of signing. Information submitted pursuant to subdivision (j) or (k) of Section 17511.4 shall be clearly identified and appended to the

filing. The information submitted pursuant to Section 17511.4 shall become part of the investigatory records and intelligence information compiled by the department for law enforcement purposes.

(b) Registration of a telephonic seller shall be valid for one year from the effective date thereof and may be annually renewed by making the filing required by Section 17511.4 and paying a filing fee of fifty dollars ($50).

(c) Whenever, prior to expiration of a seller's annual registration, there is a material change in the information required by Section 17511.4, the seller shall, within 10 days, file an addendum updating the information with the Consumer Law Section of the department. However, changes in salespersons soliciting on behalf of a seller shall be updated by addendums filed, if necessary, in quarterly intervals computed from the effective date of registration. The addendum shall provide the required information for all salespersons who are currently soliciting or have solicited on behalf of the seller at any time during the period between the filing of the registration, or the last addendum, and the current addendum, and shall include salespersons no longer soliciting for the seller as of the date of the filing of the current addendum.

(d) Upon receipt of a filing and filing fee pursuant to subdivision (a) or (b), the department shall send the telephonic seller a written confirmation of receipt of the filing. If the seller has more than one business location, the written confirmation shall be sent to the principal business location identified in the seller's filing in sufficient number so that the seller has receipt of filing, within 10 days of receipt thereof, in a conspicuous place at each of the seller's business locations and shall have available for inspection by any governmental agency at each location a copy of the entire registration statement which has been filed with the department. Until confirmation of receipt of filing is received and posted, the seller shall post in a conspicuous place at each of the seller's business locations within this state a copy of the first page of the registration form sent to the department. The seller shall also post in close proximity to either the confirmation of receipt of filing, or until the confirmation is received, the first page of the submitted registration form, the name of the individual or individuals in charge of each location from which the seller does business in this state, as defined in subdivision (a).

SEC. 13. Section 19445 of the Business and Professions Code, as added by Chapter 290 of the Statutes of 1990, is amended and renumbered to read:

19446. Notwithstanding any other provision of law, a veterinarian shall not administer medications to any horse entered in the same race in which a horse is entered which he or she owns or trains.

In addition to any penalty provided for by this chapter or any other law, a violation of this section by any licensed veterinarian shall be grounds for denial, revocation, or suspension of a license or imposition of a fine pursuant to Section 4883 and the veterinarian

shall be subject to disciplinary action pursuant to Article 4 (commencing with Section 4875) of Chapter 11 of Division 2.

SEC. 14. Section 25503.26 of the Business and Professions Code is amended to read:

25503.26. (a) Notwithstanding any other provision of this chapter, the holder of a beer manufacturer's or winegrower's license may purchase advertising space and time from, or on behalf of, an on-sale retail licensee subject to all of the following conditions:

(1) The on-sale licensee is the owner, or is the lessee, or is a wholly owned subsidiary of the lessee, of an arena with a fixed seating capacity in excess of 10,000 seats, at least 60 percent of the use of which is for horseracing events, and which is located within Los Angeles County, Alameda County, or San Mateo County.

(2) The advertising space or time is purchased only in connection with events to be held on the premises of the arena owned or leased by the on-sale licensee.

(3) The on-sale licensee serves other brands of beer or wine in addition to the brand manufactured by the beer manufacturer or produced by the winegrower purchasing the advertising space or time.

(b) Any purchase of advertising space or time pursuant to subdivision (a) shall be conducted pursuant to a written contract entered into by the holder of the beer manufacturer's or winegrower's license and the on-sale licensee.

(c) Any holder of a beer manufacturer's license or winegrower's license who, through coercion or other illegal means, induces a holder of a beer or wine wholesaler's license to fulfill the contractual obligations entered into pursuant to subdivision (a) or (b) is guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months, or by a fine in an amount equal to the entire value of the advertising space or time involved in the contract plus ten thousand dollars ($10,000), or by both imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.

SEC. 15. Section 798.41 of the Civil Code, as added by Chapter 380 of the Statutes of 1990, is amended and renumbered to read:

798.43. (a) Except as provided in subdivision (b), whenever a homeowner is responsible for payment of gas or electric utility service, management shall disclose to the homeowner any condition by which a gas or electric meter on the homeowner's site measures gas or electric service for common area facilities or equipment, including lighting, provided that management has knowledge of the condition.

Management shall disclose this information prior to the inception of the tenancy or upon discovery and shall complete either of the following:

(1) Enter into a mutual written agreement with the homeowner for compensation by management for the cost of the portion of the service measured by the homeowner's meter for the common area

facilities or equipment to the extent that this cost accrues on or after January 1, 1991.

(2) Discontinue using the meter on the homeowner's site for the utility service to the common area facilities and equipment.

(b) If the electric meter on the homeowner's site measures electricity for lighting mandated by Section 18602 of the Health and Safety Code and this lighting provides lighting for the homeowner's site, management shall not be required to comply with subdivision (a).

SEC. 16. Section 4390.3 of the Civil Code is amended to read:

4390.3. (a) On and after July 1, 1990, whenever the court orders either party to pay any amount of support or orders a modification of the amount of support to be paid, the court shall also order the obligor to assign to an obligee that portion of his or her earnings due or to be due in the future as will be sufficient to pay the amount ordered by the court for support. The court shall include a wage assignment order in any order or judgment establishing or modifying support. Upon the filing and service of a notice of motion or order to show cause with the supporting application, an obligee may request the court to issue a wage assignment to enforce an existing support order or to modify an existing wage assignment order.

(b) All orders for wage assignment entered pursuant to this section shall be effective upon compliance with the procedures set forth in Section 4390.8, unless stayed pursuant to subdivision (c).

(c) The court may order that service of the wage assignment be stayed only if the court makes a finding of good cause to stay service of the wage assignment. Good cause is limited to the following:

(1) The obligor has a history of uninterrupted, full, and timely payment of previously ordered support during the preceding 12 months; however, an obligor who has not been subject to an order of support for 12 months prior to the issuance of the wage assignment may qualify for good cause subject to this provision if the obligor posts with the clerk of the court a cash bond or cash in an amount equal to three months' support.

Notwithstanding the above, good cause to stay service of the wage assignment shall not be found if an obligor owes an arrearage for prior support.

(2) The obligor proves, and the court finds, by clear and convincing evidence that service of the wage assignment would cause extraordinary hardship upon the obligor. Whenever possible, the court shall specify a date that any stay ordered under this paragraph will automatically terminate.

(3) The parties sign a written agreement which provides for an alternative arrangement to ensure payment of the support obligation as ordered other than through the immediate service of a wage assignment. This written agreement may include an agreement relating to the staying of the service of a wage assignment. Any agreement between the parties which includes the staying of the service of a wage assignment shall include the agreement of the

district attorney in any case in which support is ordered to be paid through a county officer designated for that purpose. The signing of an agreement pursuant to this paragraph shall not preclude the party from seeking an assignment in accordance with the procedures set forth in Section 4390.4 upon violation of this agreement.

(4) The employer or district attorney has been unable to deliver payments under the assignment for a period of six months due to the failure of the obligee to notify the employer or district attorney of a change of address.

SEC. 17. Section 585.1 of the Code of Civil Procedure is amended to read:

585.1. (a) Every application to enter default under subdivision (a) or (b) of Section 585 shall include, or be accompanied by, an affidavit stating facts which show that the following conditions have been met:

(1) When the whereabouts of the party claimed to be in default are known by the party requesting the entry of default, a copy of the application for entry of default shall be mailed to the party claimed to be in default.

(2) When a party claimed to be in default is known by the party requesting the entry of default to be represented by an attorney, whether or not that attorney has formally appeared, a copy of the application shall also be sent to the attorney for the party claimed to be in default. Nothing in this section shall be construed to create any obligation to undertake any affirmative effort to determine the existence or identity of counsel representing the party claimed to be in default.

(3) If the whereabouts of a party claimed to be in default are unknown to the party requesting the entry of default and the identity of counsel for that party is also unknown to the requesting party, the application for entry of default shall so state.

(b) A default takes effect 10 days after the filing of the application for entry of default.

(c) A default may not take effect if the party claimed to be in default pleads or otherwise defends the action or proceeding prior to the expiration of 10 days from the filing of the application for entry of default.

SEC. 18. Section 301.5 of the Corporations Code is amended to read:

301.5. (a) A listed corporation may, by amendment of its articles or bylaws, adopt provisions to divide the board of directors into two or three classes to serve for terms of two or three years respectively, or to eliminate cumulative voting, or both. After the issuance of shares, a corporation which is not a listed corporation may, by amendment of its articles or bylaws, adopt provisions to be effective when the corporation becomes a listed corporation to divide the board of directors into two or three classes to serve for terms of two or three years respectively, or to eliminate cumulative voting, or both. An article or bylaw amendment providing for division of the

board of directors into classes, or any change in the number of classes, or the elimination of cumulative voting may only be adopted by the approval of the board and the outstanding shares (Section 152) voting as a single class, notwithstanding Section 903.

(b) If the board of directors is divided into two classes pursuant to subdivision (a), the authorized number of directors shall be no less than six and one-half of the directors or as close an approximation as possible shall be elected at each annual meeting of shareholders. If the board of directors is divided into three classes, the authorized number of directors shall be no less than nine and one-third of the directors or as close an approximation as possible shall be elected at each annual meeting of shareholders. Directors of a listed corporation may be elected by classes at a meeting of shareholders at which an amendment to the articles or bylaws described in subdivision (a) is approved, but the extended terms for directors are contingent on that approval, and in the case of an amendment to the articles, the filing of any necessary amendment to the articles pursuant to Section 905 or 910.

(c) If directors for more than one class are to be elected by the shareholders at any one meeting of shareholders and the election is by cumulative voting pursuant to Section 708, votes may be cumulated only for directors to be elected within each class.

(d) For purposes of this section, a "listed corporation" means any of the following:

(1) A corporation with outstanding shares listed on the New York Stock Exchange or the American Stock Exchange.

(2) A corporation with outstanding securities designated as qualified for trading as a national market system security on the National Association of Securities Dealers Automatic Quotation System (or any successor national market system) if the corporation has at least 800 holders of its equity securities as of the record date of the corporation's most recent annual meeting of shareholders. For purposes of determining the number of holders of a corporation's equity securities under this paragraph, there shall be included, in addition to the number of recordholders reflected on the corporation's stock records, the number of holders of the equity securities held in the name of any nominee holder which furnishes the corporation with a certification equivalent to the certification permitted by subdivision (a) of Section 2115, provided, that the corporation retains the certification with the record of shareholders and makes the certification available for inspection and copying in the same manner as provided in Section 1600.

(e) If an article amendment referred to in subdivision (a) is adopted by a listed corporation, the certificate of amendment shall include a statement of the facts showing that the corporation is a listed corporation within the meaning of subdivision (d). If an article or bylaw amendment referred to in subdivision (a) is adopted by a corporation which is not a listed corporation, the provision, as adopted, shall include the following statement or the substantial

equivalent: "This provision shall become effective only when the corporation becomes a listed corporation within the meaning of Section 301.5 of the Corporations Code."

SEC. 19. Section 8952.5 of the Education Code is amended to read:

8952.5. (a) The California State Summer School for the Arts shall be governed by a 15-member board of trustees, to be known as the Trustees of the California State Summer School for the Arts. The membership of the board shall be broadly representative of the cultural, ethnic, and geographic diversity of the state, and shall be composed of artists, arts educators, university professors and administrators, arts administrators, representatives of foundations, corporations, and commercial arts industries, and other distinguished citizens of the state.

(b) The membership of the board of trustees shall be as follows:

(1) Four members appointed by the Governor.

(2) One member appointed by the Speaker of the Assembly.

(3) One member appointed by the Senate Committee on Rules.

(4) Two members appointed by the State Board of Education, one of whom shall be a current member of the State Board of Education.

(5) One member appointed by the California Arts Council, who shall be a current member of the council.

(6) One member appointed by the Trustees of the California State University.

(7) One member appointed by the Regents of the University of California.

(8) Four members appointed by the governing board of the nonprofit foundation established pursuant to subdivision (f) of Section 8953.5, who shall be the president of the foundation, another officer of the foundation, a member of the governing body of the foundation, and one other person who is a member of the governing body of the foundation, has a prior relationship with the foundation, or has otherwise exhibited a continuing interest in the foundation or in the California State Summer School for the Arts.

(c) Each appointment shall be for a term of three years, and each member shall be eligible for reappointment.

(d) The board of trustees annually shall select a chairperson and vice chairperson, and annually shall hold not less than four meetings.

SEC. 20. Section 24205 of the Education Code is amended to read:

24205. If a member cancels the election of an option made pursuant to Section 24203, written cancellation shall be received by the board on or before the day preceding the effective date of retirement or during the period between reinstatement pursuant to Section 23913 and the effective date of the subsequent retirement. Regardless of how the member elects to receive his or her retirement allowance, that allowance shall be reduced by one-half of 1 percent for each year or partial year that Option 3, Option 5, or Option 7 is in effect, or by six-tenths of 1 percent for each year or partial year that Option 4 is in effect, or by three-fourths of 1 percent for each

year or partial year that Option 2 or Option 6 is in effect.

SEC. 21. Section 32261 of the Education Code is amended to read:

32261. The Legislature hereby recognizes that all pupils enrolled in the state public schools have the inalienable right to attend classes on campuses which are safe, secure, and peaceful. The Legislature also recognizes that pupils cannot fully benefit from an educational program unless they attend school on a regular basis. In addition, the Legislature further recognizes that school crime, vandalism, truancy, and excessive absenteeism are significant problems on far too many school campuses in the state.

The Legislature hereby finds and declares that the establishment of an interagency coordination system is the most efficient and long-lasting means of resolving school and community problems of crime, vandalism, and truancy.

It is the intent of the Legislature in enacting this chapter to encourage school districts, county offices of education, and law enforcement agencies to develop and implement interagency strategies, programs, and activities which will improve school attendance and reduce the rates of school crime and vandalism.

SEC. 22. Section 48204.1 of the Education Code is amended to read:

48204.1. (a) The State Department of Education shall provide data with respect to pupils who are deemed to have complied with the residency requirements for school attendance in a school district pursuant to subdivision (f) of Section 48204, as follows:

(1) The number of transfers, both in terms of a school district from which pupils are exiting and a school district to which pupils are transferring, based on fiscal reporting data which compensates school districts based on average daily attendance.

(2) The number of actual transfers out of a school district and into a school district pursuant to subdivision (f) of Section 48204.

(3) The number of requests by pupils to transfer out of the school district in which he or she resides, the number of requests for those pupils that are rejected, and the reasons for the rejection.

(4) The number of pupils submitting new transfer requests and the number of pupils resubmitting a request from a prior year.

(5) The percentage of the total average daily attendance that a school district may lose as a result of pupils exiting from a school district. This percentage may be calculated as the difference between the number of pupils who transferred out of the district and the number of pupils who transferred into the district divided by the total number of pupils enrolled in a school district.

(6) The ethnicity of pupils exiting from and transferring to a school district pursuant to subdivision (f) of Section 48204.

(b) This section shall remain in effect only until June 30, 1995, and as of that date is repealed, unless a later enacted statute, which is enacted and becomes effective before June 30, 1995, deletes or extends that date.

SEC. 23. Section 51873.5 of the Education Code is amended to

read:

51873.5. The duties of the Educational Technology Committee shall include, but not be limited to, all of the following:

(a) Recommending to the State Board of Education and the Superintendent of Public Instruction priorities for public school kindergarten and grades 1 to 12, inclusive, educational technology funding, targeting identified educational needs.

(b) Advising the State Board of Education and the Superintendent of Public Instruction of continuing developments in information technologies and their application to education for purposes of enhanced learning.

(c) Advising the State Board of Education and the Superintendent of Public Instruction, pursuant to this article, on the allocation of grants for educational software research and development, research and demonstration schools, school-based adoption grants and adaptation grants, research and development grants, grants to postsecondary educational institutions, and grants to regional consortia.

(d) Advising the State Board of Education and the Superintendent of Public Instruction on efforts to ensure equal pupil access to educational technology programs, taking into account varied socioeconomic conditions, urban-rural differences, gender, and developments in knowledge of the learning process.

(e) Recommending to the State Board of Education and the Superintendent of Public Instruction an annual budget identifying proposed funding levels for the educational technology program.

(f) Advising the State Board of Education and the Superintendent of Public Instruction on guidelines to promote high quality educational technology instructional material and to improve coordinated software research and communications between educational technology developers and distributors, curriculum specialists, teachers, principals, cognitive scientists, and hardware companies.

(g) Advising the State Board of Education and the Superintendent of Public Instruction on devising methods for mobilizing and integrating private sector involvement in public school programs.

(h) Making recommendations to the State Board of Education and the Superintendent of Public Instruction regarding structure, criteria, and objectives for the evaluation of educational technology programs in accordance with evaluation criteria specified in Section 51876.5.

(i) Making recommendations to the State Board of Education and the Superintendent of Public Instruction regarding grant awards to public postsecondary educational institutions for any of the following purposes:

(1) Providing computer education courses as part of an approved teacher preparation program. Teacher preparation programs which provide computer education courses funded pursuant to this section

shall, to the extent feasible, be developed in cooperation with regional consortia in order to meet regional teaching training needs.

(2) Conducting studies of computer assisted instruction.

(j) Advising the California Planning Commission for Educational Technology regarding the State Master Plan for Educational Technology.

SEC. 24. Section 56244 of the Education Code, as added by Chapter 1501 of the Statutes of 1990, is amended and renumbered to read:

56245. The Legislature encourages the inclusion, in local in-service training programs for regular education teachers and special education teachers in school districts, special education local plan areas, and county offices of education, of a component on the recognition of, and teaching strategies for, specific learning disabilities, including dyslexia and related disorders.

SEC. 25. Section 66915 of the Education Code, as added by Chapter 1324 of the Statutes of 1989, is amended and renumbered to read:

66914.5. (a) The commission, with the assistance of the Superintendent of Public Instruction, shall work in cooperation with the Council for Private Postsecondary and Vocational Education to prepare a preliminary draft of proposed regulations to implement the standards, procedures, and criteria prescribed in Chapter 3 (commencing with Section 94300) of Part 59, including all of the following:

(1) Policies for the administration of the Private Postsecondary and Vocational Education Reform Act of 1989 (Chapter 3 (commencing with Section 94300) of Part 59).

(2) A procedure for the development and adoption of rules, regulations, and procedures which are necessary or appropriate to conduct the work of the council.

(3) Minimum criteria for the approval of private postsecondary or vocational educational institutions to operate in the state and to award degrees and diplomas.

(4) A procedure for the approval of institutions which meet the prescribed criteria.

(b) The preliminary draft shall be delivered to the council on or before December 31, 1990.

SEC. 26. Section 72247.3 of the Education Code is amended to read:

72247.3. Notwithstanding Section 72247, the Governing Board of the Pasadena Community College District may require payment of a parking fee at a campus in excess of the limits set forth in subdivision (a) of Section 72247 for the purpose of funding the construction of an oncampus parking structure if both of the following conditions exist at the campus:

(a) The average daily attendance (ADA) per parking space on the campus exceeds the statewide average ADA per parking space on community college campuses.

(b) The market price per square foot of land adjacent to the campus exceeds the statewide average market price per square foot of land adjacent to community college campuses.

If the governing board requires payment of a parking fee in excess of the limits set forth in subdivision (a), the fee may not exceed the actual cost of constructing a parking structure. Students who receive financial assistance pursuant to any of the programs described in subdivision (g) of Section 72252 shall be exempt from parking fees imposed pursuant to this section which exceed twenty dollars ($20) per semester.

SEC. 27. Section 78032 of the Education Code is amended to read:

78032. (a) Notwithstanding Section 78031, the Board of Governors of the California Community Colleges may, pursuant to a finding that one or more of the following concerns in any community college district requires the restriction of interdistrict attendance, impose one or more restrictions upon interdistrict attendance with regard to that district as it deems necessary:

(1) Protection of the financial health of the district, and of educational program integrity, including, but not limited to, maintenance of the appropriate quality and scope of student educational opportunity.

(2) The need to avoid overcrowding, in light of the available space in the district.

(3) The priority that resident students not be displaced by students who do not reside in the district.

(4) The avoidance of any serious disruption in the ethnic balance of the student population of any affected district.

(b) No restriction adopted under subdivision (a) shall apply for a period of longer than two years, absent additional action of the board of governors to continue that restriction.

(c) (1) No community college district shall recruit any student who is a resident of any other community college district, except where an agreement exists between those districts authorizing each district to recruit within the boundaries of the other district.

(2) If, pursuant to an agreement as described in paragraph (1), a community college district recruits within the boundaries of another community college district, it shall recruit from all high schools within that other district, and may not favor any high schools over other high schools within that other district unless it is intended to improve the racial balance of the recruiting community college district.

(3) "Recruiting," for purposes of this section, means either or both of the following actions by a community college district, where the apparent purpose is to encourage student attendance in that district:

(A) The mailing by a community college district, to any address not within its boundaries, of class schedules or other written information, except to current or former students of the district or at the addressee's request.

(B) The personal visit by a representative of the community

college district to any high school, except in response to an invitation from the school district of which the high school is a part.

"Recruiting" does not include, for this purpose, any information provided by a community college district through radio, television, or any newspaper or other publication that is not published or otherwise issued by the district, and for which distribution is not limited to residents of the district.

(d) The board of governors shall authorize the Chancellor of the California Community Colleges to retain in any fiscal year an amount of up to 5 percent of the appropriation calculated under Chapter 5 (commencing with Section 84700) of Part 50 as a penalty applicable to any community college district that violates this article, including, but not limited to, any restriction imposed by the board of governors under this section. Any funds retained pursuant to this subdivision shall revert to the General Fund.

(e) The board of governors shall annually report to the Legislature and the Governor regarding any restrictions imposed pursuant to subdivision (a), statistical information relating to interdistrict attendance, and any retention of funds pursuant to subdivision (d).

SEC. 28. Section 94319.10 of the Education Code is amended to read:

94319.10. (a) An institution is legally authorized to provide courses of instruction if the institution complies with both this article and Sections 94320 and 94321, or Section 94320 as that section is in effect on January 1, 1991, has received approval from the council, and has not been found to be in violation of this article by the council, the Student Aid Commission, or a court. No institution shall offer any course of instruction if the institution's approval to offer that course of instruction has been suspended or revoked.

(b) (1) The council, after notice and, if requested by the institution, a hearing, may suspend or revoke an institution's approval to operate, or approval to operate a branch or satellite campus, or may order that an institution cease offering a class or course of instruction because of any violation of this article, Sections 94320 and 94321, or Section 94320 as that section is in effect on January 1, 1991, or any regulation or order issued pursuant to this article.

(2) If the council takes any of the actions described in paragraph (1), the council, in its discretion, may permit the institution to continue to offer the class or course of instruction to students already enrolled or may order the institution to cease instruction and provide a refund of tuition and all other charges to students.

(c) (1) If the council determines, after notice and, if requested by the institution, a hearing, that an institution has violated this article or Sections 94320 and 94321, or Section 94320 as that section is in effect on January 1, 1991, but that the institution's approval to operate, or approval to operate a branch or satellite campus, should not be suspended or revoked, or that the institution should not be

ordered to cease offering a class or course of instruction, the council may do any or all of the following: place the institution, or branch or satellite campus, on probation under reasonable terms and conditions for a specified period of time not to exceed two years, order that the institution post a bond, or order the institution not to enter into new agreements for courses of instruction.

(2) During the period of probation, the institution, or the branch or satellite campus, or both the institution and the branch or satellite campus, shall be subject to monitoring that may include the required submission of periodic reports, as prescribed by the council, and special onsite inspections to determine progress toward compliance. The onsite inspections may include an inspection of the institution's facilities and records, interviews of administrators, faculty, and students, and observation of class instruction. The council shall order the institution to reimburse all reasonable costs and expenses incurred by the council in connection with this paragraph. The council may make the payment of the order for reimbursement a condition of probation.

(3) If, at the end of the period of probation, the council is not satisfied with the steps taken by the institution to eliminate the violations of this article or Sections 94320 and 94321, or Section 94320 as that section is in effect on January 1, 1991, upon which the probation was based, the council may revoke the institution's approval to operate or the institution's approval to operate a branch or satellite campus.

(4) The council may assess a penalty of up to ten thousand dollars ($10,000) as part of a probation order for violations of this article or Sections 94320 and 94321, or Section 94320 as that section is in effect on January 1, 1991. In determining the amount of that penalty, the council shall consider the number and gravity of the violations, the degree of the institution's good faith or culpability, the history of the institution's previous violations, and the institution's ability to pay. If the institution fails to pay a penalty within the time prescribed by the council, the institution's approval to operate the institution, or approval to operate a branch or satellite campus, shall be automatically suspended until the penalty is paid in full.

(5) (A) Any bond ordered by the council shall be issued by an admitted surety insurer in an amount established at the discretion of the council that is sufficient to protect students from the potential consequences of the violation.

(B) The bond shall be in favor of the State of California for the indemnification of any person for any loss, including the loss of prepaid tuition, suffered as a result of the occurrence of any violation of this chapter during the period of coverage.

(C) Liability on the bond may be enforced after a hearing before the council, after 30 days' advance written notice to the principal and surety. The council shall adopt regulations establishing the procedure for administrative enforcement of liability. This paragraph supplements, but does not supplant, any other rights or

remedies to enforce liability on the bond.

(D) The council may order the institution to file reports at any interval the council deems necessary to enable the council to monitor the adequacy of the bond coverage and to determine whether further action is appropriate.

(d) The council shall determine an institution's compliance, including the compliance of its branch and satellite campuses, with this article and Sections 94320 and 94321, or Section 94320 as that section is in effect on January 1, 1991, and shall not be bound by the findings or conclusions of any accrediting agency.

(e) The council may revoke the approval to operate of any institution which fails to pay an order imposing a penalty or an order for the reimbursement of costs and expenses. The council may enforce any administrative order requiring the payment of money in the same manner as if it were a money judgment pursuant to Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure. All penalties and reimbursements paid pursuant to this section shall be deposited in the vocational education account in the Private Postsecondary Education Administration Fund established pursuant to Section 94331.

(f) Proceedings by the council under this section shall be conducted in accordance with regulations adopted by the council or, if there are no regulations establishing hearing procedures, Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the council shall have all of the powers granted therein.

(g) The council may bring an action for equitable relief for any violation of this article in addition to, or instead of, any other remedy or procedure.

SEC. 29. Section 1901 of the Financial Code is amended to read:

1901. Whenever, in the judgment of the superintendent, the condition of any bank, trust company, or foreign banking corporation renders it necessary or expedient to make an extra examination or to devote any extraordinary attention to its affairs, he or she has the authority to make any necessary extra examinations and to devote any necessary extra attention to the conduct of its affairs and to charge for such extra services an amount not exceeding two hundred dollars ($200) a day for each examiner engaged in the examination of such bank.

SEC. 30. Section 5307 of the Financial Code, as added by Section 18.5 of Chapter 1118 of the Statutes of 1990, is amended and renumbered to read:

5309. (a) A person shall be sentenced to consecutive terms for each violation of Section 5303, 5304, 5305, or 5306 up to a mandatory term of 20 years in state prison if all of the following are charged in the accusatory pleading and admitted by the defendant, or found to be true by the trier of fact:

(1) The person is an institution affiliated party.

(2) The person engaged in a pattern and practice of activity

involving multiple violations of Section 5303, 5304, 5305, or 5306.

(3) The person acted with intent to cause substantial harm, or with reckless disregard of the possibility of causing substantial harm, to the savings institution.

(4) The violations did in fact result in substantial harm to the savings institution.

(b) No part of a consecutive sentence required pursuant to subdivision (a) may be suspended or revoked by the court.

(c) Nothing in subdivision (a) shall limit the court's discretion to sentence the defendant to a consecutive term longer than provided for in that subdivision, if otherwise permitted by law.

(d) Nothing in subdivision (a) shall limit the court's discretion to order consecutive sentences for violations of Section 5303, 5304, 5305, or 5306 under any other provision of law.

SEC. 31. Section 15151 of the Financial Code is amended to read:

15151. (a) A credit union shall maintain a current written schedule or schedules containing all of the following:

(1) The amount or, if no amount can be stated, the method of determining the amount of each charge which the credit union may impose on an account.

(2) Provisions in the credit union's written capital policy statement relating to the frequency, method that will be used in calculating, and the conditions under which dividends will be paid, including any provision for nonpayment of dividends on deposits made after the beginning of the dividend payment period or withdrawn before the end of that period.

(3) If the rate of dividend may vary, the circumstances under which a variation may occur and the method of determining the new rate.

(4) The effective date thereof.

(b) The schedule or schedules shall be available for inspection by the credit union members or prospective members at each branch office in California at which such accounts are maintained and written materials setting forth the information contained in such schedule shall be displayed and be available to the credit union members or prospective members in an area of the credit union which is open to the credit union members or prospective members. The schedule or schedules and written materials need not contain information relating to an account for an unincorporated association of natural persons.

SEC. 32. Section 22208 of the Financial Code is amended to read:

22208. (a) Each licensee shall pay to the commissioner its pro rata share of all costs and expenses reasonably incurred in the administration of this division, as estimated by the commissioner, for the ensuing year and any deficit actually incurred or anticipated in the administration of the program in the year in which the assessment is made. The pro rata share shall be the proportion which a licensee's gross income bears to the aggregate gross income of all licensees as shown by the annual financial reports to the

commissioner.

(b) On or before the 30th day of May in each year, the commissioner shall notify each licensee by mail of the amount assessed and levied against it and that amount shall be paid within 20 days thereafter. If payment is not made within 20 days, the commissioner shall assess and collect a penalty, in addition to the assessment, of 1 percent of the assessment for each month or part of a month that the payment is delayed or withheld.

(c) In the levying and collection of the assessment, a licensee shall neither be assessed for nor be permitted to pay less than one hundred fifty dollars ($150) per year.

(d) If a licensee fails to pay the assessment on or before the 30th day of June following the day upon which payment is due, the commissioner may by order summarily suspend or revoke the certificate issued to the licensee. If, after an order is made, a request for hearing is filed in writing within 30 days, and a hearing is not held within 60 days thereafter, the order is deemed rescinded as of its effective date. During any period when its certificate is revoked or suspended, a licensee shall not conduct business pursuant to this division except as may be permitted by order of the commissioner. However, the revocation, suspension, or surrender of a certificate shall not affect the powers of the commissioner as provided in this division.

SEC. 33. Section 24208 of the Financial Code is amended to read:

24208. (a) Each licensee shall pay to the commissioner its pro rata share of all costs and expenses reasonably incurred in the administration of this division, as estimated by the commissioner, for the ensuing year and any deficit actually incurred or anticipated in the administration of the program in the year in which the assessment is made. The pro rata share shall be the proportion which a licensee's gross income bears to the aggregate gross income of all licensees as shown by the annual financial reports to the commissioner.

(b) On or before the 30th day of May in each year, the commissioner shall notify each licensee by mail of the amount assessed and levied against it and that amount shall be paid within 20 days thereafter. If payment is not made within 20 days, the commissioner shall assess and collect a penalty, in addition to the assessment, of 1 percent of the assessment for each month or part of a month that the payment is delayed or withheld.

(c) In the levying and collection of the assessment, a licensee shall neither be assessed for nor be permitted to pay less than one hundred fifty dollars ($150) per year.

(d) If a licensee fails to pay the assessment on or before the 30th day of June following the day upon which payment is due, the commissioner may by order summarily suspend or revoke the certificate issued to the licensee. If, after an order is made, a request for hearing is filed in writing within 30 days, and a hearing is not held within 60 days thereafter, the order is deemed rescinded as of its

effective date. During any period when its certificate is revoked or suspended, a licensee shall not conduct business pursuant to this division except as may be permitted by order of the commissioner. However, the revocation, suspension, or surrender of a certificate shall not affect the powers of the commissioner as provided in this division.

SEC. 34. Section 26208 of the Financial Code is amended to read:

26208. (a) Each licensee shall pay to the commissioner its pro rata share of all costs and expenses reasonably incurred in the administration of this division, as estimated by the commissioner, for the ensuing year and any deficit actually incurred or anticipated in the administration of the program in the year in which the assessment is made. The pro rata share shall be the proportion which a licensee's gross income bears to the aggregate gross income of all licensees as shown by the annual financial reports to the commissioner.

(b) On or before the 30th day of May in each year, the commissioner shall notify each licensee by mail of the amount assessed and levied against it and that amount shall be paid within 20 days thereafter. If payment is not made within 20 days, the commissioner shall assess and collect a penalty, in addition to the assessment, of 1 percent of the assessment for each month or part of a month that the payment is delayed or withheld.

(c) In the levying and collection of the assessment, a licensee shall not be assessed for nor be permitted to pay less than one hundred fifty dollars ($150) per year.

(d) If a licensee fails to pay the assessment on or before the 30th day of June following the day upon which payment is due, the commissioner may by order summarily suspend or revoke the license issued to the licensee. If, after such an order is made, a request for hearing is filed in writing within 30 days, and a hearing is not held within 60 days thereafter, the order is deemed rescinded as of its effective date. During any period when its license is revoked or suspended, a licensee shall not conduct business pursuant to this division except as may be permitted by order of the commissioner. However, the revocation, suspension, or surrender of a license shall not affect the powers of the commissioner as provided in this division.

SEC. 35. Section 13060 of the Food and Agricultural Code is amended and renumbered to read:

13131. (a) Commencing July 1, 1990, the department, in cooperation with the State Department of Health Services, shall conduct an assessment of dietary risks associated with the consumption of produce and processed foods treated with pesticides. This assessment shall integrate adequate data on acute effects and the mandatory health effects studies specified in subdivision (c) of Section 13123, appropriate dietary consumption estimates, and relevant residue data based on the department's and the State Department of Health Services' monitoring data and appropriate

field experimental and food technology information to quantify consumer risk. Differences in age, sex, ethnic, and regional consumption patterns shall be considered. The department shall submit each risk assessment to the State Department of Health Services, with necessary supporting documentation, for peer review, which shall consider the adequacy of public health protection. The State Department of Health Services may provide comments to the department. The department shall formally respond to all of the comments made by the State Department of Health Services. The department shall modify the risk assessment to incorporate the comments as deemed appropriate by the director. All correspondence between the department and the State Department of Health Services in this matter shall be made available to any person, upon request, pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(b) The department shall consider those pesticides designated for priority food monitoring pursuant to Section 12535 and the results of the department's or the State Department of Health Services' monitoring in establishing priorities for the dietary risk assessments.

(c) (1) If the department lacks adequate data on the acute effects of pesticide active ingredients or mandatory health effects studies specified in subdivision (c) of Section 13123 necessary to accurately estimate dietary risk, the department shall require the appropriate data to be submitted by the registrant of products whose labels include food uses. This subdivision shall not be construed to affect the time frames established pursuant to Section 13127.

(2) No applicant for registration, or current registrant, of a pesticide who proposes to purchase or purchases a registered pesticide from another producer in order to formulate the purchased pesticide into an end use product shall be required to submit or cite data pursuant to this section or offer to pay reasonable compensation for the use of any such data if the producer is engaged in fulfilling the data requirements of this section.

(d) (1) If a registrant fails to submit the data requested by the director pursuant to this section within the time specified by the director, the director shall issue a notice of intent to suspend the registration of that pesticide. The director may include in the notice of intent to suspend any provisions that are deemed appropriate concerning the continued sale and use of existing stocks of that pesticide. Any proposed suspension shall become final and effective 30 days from the receipt by the registrant of the notice of intent to suspend, unless during that time a request for hearing is made by a person adversely affected by the notice or the registrant has satisfied the director that the registrant has complied fully with the requirements that served as a basis for the notice of intent to suspend. If a hearing is requested, a hearing shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The only matter for

resolution at the hearing shall be whether the registrant has failed to take the action that served as the basis for the notice of intent to suspend the registration of the pesticide for which additional data is required and whether the director's determination with respect to the disposition of existing stocks is consistent with this subdivision.

(2) A hearing shall be held and a determination made within 75 days after receipt of a request for a hearing. The decision rendered after completion of the hearing shall be final. Any registration suspended shall be reinstated by the director if the director determines that the registrant has complied fully with the requirements that served as a basis for the suspension of the registration.

(e) If the department finds that any pesticide use represents a dietary risk that is deleterious to the health of humans, the department shall prohibit or take action to modify that use or modify the tolerance pursuant to Section 12561, or both, as necessary to protect the public.

SEC. 36. Section 13061 of the Food and Agricultural Code is amended and renumbered to read:

13132. The department and the State Department of Health Services shall jointly review the existing federal and state pesticide registration and food safety system and determine if the existing programs adequately protect infants and children from dietary exposure to pesticide residues. The review shall commence as early as possible in 1990, so that any policy or administrative adjustments determined to be necessary as a result of the joint review can be made on a timely basis. The department shall consult with the University of California and other qualified public and private entities in conducting the joint review. The joint review shall continue for a sufficient time in order to evaluate the report of infant exposure to pesticide residues, which is presently being undertaken by the National Academy of Sciences. Within six months of the official release of the National Academy of Sciences' study, the department shall finalize a report describing the evaluation that was conducted pursuant to this section, including any recommendations for modification of the existing regulatory system in order to adequately protect infants and children. A copy of this report shall be submitted to the Governor and the Legislature.

SEC. 37. Section 13150 of the Food and Agricultural Code is amended to read:

13150. The director may allow the continued registration, sale, and use of an economic poison which meets any one of the conditions specified in Section 13149 if all of the following conditions are met:

(a) The registrant submits a report and documented evidence which demonstrate both of the following:

(1) That the presence in the soil of any active ingredient, other specified ingredient, or degradation product does not threaten to pollute the groundwater of the state in any region within the state in which the economic poison may be used according to the terms

under which it is registered.

(2) That any active ingredient, other specified ingredient, or degradation product that has been found in groundwater has not polluted, and does not threaten to pollute, the groundwater of the state in any region within the state in which the economic poison may be used according to the terms under which it is registered.

(b) A subcommittee of the director's pesticide registration and evaluation committee, consisting of one member each representing the director, the State Department of Health Services, and the board, holds a hearing, within 180 days after it is requested by the registrant, to review the report and documented evidence submitted by the registrant and any other information or data which the subcommittee determines is necessary to make a finding.

(c) The subcommittee, within 90 days after the hearing is conducted, makes any of the following findings and recommendations:

(1) That the ingredient found in the soil or groundwater has not polluted, and does not threaten to pollute, the groundwater of the state.

(2) That the agricultural use of the economic poison can be modified so that there is a high probability that the economic poison would not pollute the groundwater of the state.

(3) That modification of the agricultural use of the economic poison pursuant to paragraph (2) or cancellation of the economic poison will cause severe economic hardship on the state's agricultural industry, and that no alternative products or practices can be effectively used so that there is a high probability that pollution of the groundwater of the state will not occur. The subcommittee shall recommend a level of the economic poison that does not significantly diminish the margin of safety recognized by the subcommittee to not cause adverse health effects.

When the subcommittee makes a finding pursuant to paragraph (2) or this paragraph (3), it shall determine whether the adverse health effects of the economic poison are carcinogenic, mutagenic, teratogenic, or neurotoxic.

(d) The director, within 30 days after the subcommittee issues its findings, does any of the following:

(1) Concurs with the subcommittee finding pursuant to paragraph (1) of subdivision (c).

(2) Concurs with the subcommittee finding pursuant to paragraph (2) of subdivision (c), and adopts modifications that result in a high probability that the economic poison would not pollute the groundwaters of the state.

(3) Concurs with the subcommittee findings pursuant to paragraph (3) of subdivision (c), or determines that the subcommittee finding pursuant to paragraph (2) of subdivision (c) will cause severe economic hardship on the state's agricultural industry. In either case, the director shall adopt the subcommittee's recommended level or shall establish a different level, provided the

level does not significantly diminish the margin of safety to not cause adverse health effects.

(4) Determines that, contrary to the finding of the subcommittee, no pollution or threat to pollution exists. The director shall state the reasons for his or her decisions in writing at the time any action is taken, specifying any differences with the subcommittee's findings and recommendations. The written statement shall be transmitted to the appropriate committees of the Senate and Assembly, the State Department of Health Services, and the board.

When the director takes action pursuant to paragraph (2) or (3), he or she shall determine whether the adverse health effects of the economic poison are carcinogenic, mutagenic, teratogenic, or neurotoxic.

SEC. 38. Section 14978 of the Food and Agricultural Code is amended to read:

14978. (a) In order to avoid administrative charges which may adversely impact persons subject to this chapter, and to provide for more efficient implementation of this chapter, the board may, on or before January 15 of any year, designate itself or another entity to administer this chapter for the fiscal year beginning July 1 of the same year through June 30 of the following year, in accordance with the regulations and procedures adopted or established by the director pursuant to Section 14979.

(b) Notwithstanding subdivision (a), the director shall be responsible for the enforcement of this chapter and for the establishment of enforcement procedures.

SEC. 39. Section 41207 of the Food and Agricultural Code is amended to read:

41207. (a) The committee shall be advisory to the director on all matters pertaining to this chapter and certification of the quality of grapes used for processing pursuant to Section 40531 and shall make recommendations concerning the inspection and certification services rendered, including the annual budget and fees necessary to provide adequate inspection services and varietal and appellation integrity. All recommendations for budgets and assessment fees shall be submitted to the director on or before May 1 of each year.

(b) The committee's primary goal shall be to recommend to the director objective criteria and inspection procedures for all quality conditions that have an effect on the acceptance of, or on the amount of the purchase price of, fresh grapes for wine and by-product purposes.

(c) The committee may also recommend to the director the institution and promotion of scientific research pertaining to varietal and appellation integrity.

(d) On or before May 1 of each year, the committee shall receive and evaluate comments and report to the director concerning the performance of the varietal and appellation integrity program and the progress toward attaining the goals of the program. The committee shall, based upon their evaluation, make

recommendations so that the program is as active or inactive as the committee deems appropriate.

(e) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1993, deletes or extends that date.

SEC. 40. The heading of Article 6 (commencing with Section 41251) of Chapter 3 of Division 16 of the Food and Agricultural Code is amended to read:

Article 6. Winegrape Varietal and Appellation Integrity

SEC. 41. Section 75552 of the Food and Agricultural Code is amended to read:

75552. (a) Each district shall consist of the following counties:

(1) District 1 consists of the Counties of San Luis Obispo, Kern, San Bernardino, Santa Barbara, Ventura, Los Angeles, Orange, Riverside, San Diego, and Imperial.

(2) District 2 consists of the Counties of Monterey, San Benito, Merced, Tuolumne, Alpine, Mariposa, Mono, Fresno, Madera, Inyo, Kings, and Tulare.

(3) District 3 consists of the Counties of Santa Cruz, Santa Clara, Stanislaus, Calaveras, Amador, El Dorado, Sacramento, Solano, San Mateo, San Francisco, Alameda, Contra Costa, San Joaquin, Placer, Nevada, Sierra, Yuba, Sonoma, Napa, Yolo, Sutter, Shasta, Plumas, Butte, Colusa, Glenn, Lake, Del Norte, Siskiyou, Modoc, Trinity, Lassen, Marin, Tehama, Mendocino, and Humboldt.

(b) The boundaries of any district may be changed by a two-thirds vote of the membership of the committee, which is concurred in by the director, when necessary to maintain similar total production among the districts and to ensure proper representation by handlers. These boundaries need not coincide with county lines.

SEC. 42. Part 8 (commencing with Section 997) of Division 3.6 of Title 1 of the Government Code, as added by Chapter 21 of the Statutes of the 1989–90 First Extraordinary Session, is repealed.

SEC. 43. Section 8684 of the Government Code, as added by Chapter 11 of the Statutes of the 1989–90 First Extraordinary Session, is repealed.

SEC. 44. Section 11373.3 of the Government Code is amended to read:

11373.3. The Office of Administrative Hearings shall provide facilities and support personnel for the review committee panel and shall assess the Medical Board of California for facilities and personnel, where used to adjudicate cases involving the Medical Board of California.

SEC. 45. Section 13307 of the Government Code, as added by Chapter 461 of the Statutes of 1990, is repealed.

SEC. 46. Article 3.5 (commencing with Section 13540) of Chapter 1 of Part 6.7 of Division 3 of Title 2 of the Government Code, as added by Chapter 11 of the Statutes of the 1989–90 First Extraordinary

Session, is repealed.

SEC. 47. The heading of Article 3.5 (commencing with Section 13540) of Chapter 1 of Part 6.7 of Division 3 of Title 2 of the Government Code, as added by Chapter 12 of the Statutes of the 1989–90 First Extraordinary Session, is amended and renumbered to read:

Article 3.7. California Earthquake Emergency Grant Aid Program

SEC. 48. Section 13540 of the Government Code, as added by Chapter 12 of the Statutes of the 1989–90 First Extraordinary Session, is amended and renumbered to read:

15347. The department shall administer the California Earthquake Emergency Grant Aid Program for the general purpose of helping small businesses and local economies recover from the October 17, 1989, earthquake and related aftershocks.

SEC. 49. Section 13541 of the Government Code, as added by Chapter 12 of the Statutes of the 1989–90 First Extraordinary Session, is amended and renumbered to read:

15348. The department shall make grants from the California Economic Development Grant and Loan Fund to cities and counties, small business development corporations, small business development centers, and other nonprofit organizations, for the following specific purposes:

(a) To provide loan packaging assistance to small businesses who are attempting to qualify for small business administration loans, state loans, or private bank loans, for disaster relief.

(b) To provide counseling and technical assistance to small businesses in the areas of business planning and management, financial analyses, and cost recovery strategy.

(c) To provide bilingual services to business owners and their employees to ensure adequate access to all available disaster relief programs.

(d) To provide for the preparation of long-range economic development plans and revitalization strategies by communities which suffered substantial economic disruption.

(e) To provide assistance to communities to develop marketing plans and disseminate information about economic and business opportunities in the region, such as tourism promotion and available business sites.

SEC. 49.5. Section 13542 of the Government Code, as added by Chapter 1525 of the Statutes of 1990, is amended and renumbered to read:

15349. (a) The department shall administer the California Emergency Grant Assistance Program. Under this program, the department may make grants from the California Economic Development Grant and Loan Fund to cities and counties, small business development corporations, and small business development

centers.

(b) The department may make grants to entities specified in subdivision (a) for all of the following purposes:

(1) To provide loan packaging assistance to small businesses which are attempting to qualify for federal Small Business Administration loans, state loans, or private bank loans, for disaster relief.

(2) To provide counseling and technical assistance to small businesses in the areas of business planning and management, financial analyses, and cost recovery strategy.

(3) To provide bilingual services to business owners and their employees to ensure adequate access to all available disaster relief programs.

(4) To provide for the preparation of long-range economic development plans and revitalization strategies by communities which suffer substantial economic disruption.

(5) To provide assistance to communities to develop marketing plans and disseminate information about economic and business opportunities in the region, such as tourism promotion and available business sites.

(c) The Director of Finance, with the approval of the Governor, may transfer moneys from the Special Fund for Economic Uncertainties to the California Economic Development Grant and Loan Fund, for use by the Department of Commerce, in an amount necessary to implement this section.

SEC. 50. The second version of Section 14555.52 of the Government Code, as added by Section 4 of Chapter 106 of the Statutes of 1989, is amended and renumbered to read:

14555.525. In the County of Tulare:

Highway Route	Project Number	Amount (x $1,000)	Project Description
065	0296A	581	AC Overlay
065	0300	9,980	Widen Expressway
065	0302	659	Relocate Intersection
099	0306	548	Soundwall
099	0307	389	Soundwall
099	0315	1,144	Overcrossing
099	0319A	424	Widen Bridges
190	0240A	304	Retaining Walls
198	0329C	1,043	AC Overlay
198	0330A	28,600	Right-of-Way Acquisition
198	0333A	530	AC Overlay
198	0333B	615	AC Overlay

SEC. 51. Section 15373.96 of the Government Code, as added by Chapter 1109 of the Statutes of 1989, is amended and renumbered to read:

15373.955. (a) There is hereby created in the Rural Economic

Development Fund the Rural Revolving Loan Collection Account. The Rural Revolving Loan Collection Account is created solely for the purpose of receiving charges, fees, income, and collections, and paying costs necessary to protect the state's interests as specified in subdivision (c).

(b) In order to defray costs to the department for administration of its rural revolving loan program, the department may do all of the following:

(1) Impose reasonable charges on all applications, approved grants, and approved loans.

(2) Recover collection costs from the borrower, grantee, or other party.

(3) Earn income on any asset recovered pursuant to a loan default.

(c) The department may use these fees or other charges for those costs necessary to protect the state's position as a lender-creditor. These costs shall be broadly construed to include, but are not limited to, foreclosure expenses, auction fees, title searches, appraisals, real estate brokerage fees, attorney fees, mortgage payments, insurance payments, utility costs, repair costs, removal and storage costs for repossessed equipment and inventory, and additional expenditures to purchase a senior lien in foreclosure or bankruptcy proceedings.

(d) In the event that collection costs exceed the funds available in the Rural Revolving Loan Collection Account, the department may pay collection costs from the funds in the Rural Economic Development Fund.

SEC. 52. Article 6 (commencing with Section 15373.96) of Chapter 2.5 of Part 6.7 of Division 3 of Title 2 of the Government Code, as added by Chapter 5 of the Statutes of the 1989–90 First Extraordinary Session, is repealed.

SEC. 53. Section 15819.24 of the Government Code is amended to read:

15819.24. (a) It is the intention of the Legislature in enabling the construction of the California State Prison-Fresno County, as authorized by Chapter 981 of the Statutes of 1990, to ensure that the City of Coalinga and the Department of Corrections actively endeavor to encourage the development of affordable accommodations and transportation at locations and times to afford access to all visitors of prisoners, including the infirm, the aged, the poor, and children.

(b) The necessary funding for the construction of the California State Prison-Fresno County, authorized by Chapter 981 of the Statutes of 1990, may be obtained through lease-purchase financing arrangements. Sections 15819.1 to 15819.13, inclusive, and Section 15819.15, shall apply for this purpose, provided that the following apply:

(1) "Prison facility," as used in Section 15819.1, includes the California State Prison-Fresno County.

(2) Notwithstanding the limitation imposed by Section 15819.3

regarding the amount of bonds to be issued for construction, acquisition, and financing of prison facilities, the State Public Works Board may issue additional bonds in order to pay the costs of acquiring and constructing or refinancing the California State Prison-Fresno County.

(c) Notwithstanding Section 13340, funds derived from the lease-purchase financing methods for the California State Prison-Fresno County, deposited in the State Treasury, are hereby continuously appropriated to the State Public Works Board on behalf of the Department of Corrections for the purpose of acquiring and constructing or refinancing the prison facility so financed.

The sum of two hundred seven million three hundred thousand dollars ($207,300,000) shall be available for capital outlay for the California State Prison-Fresno County from funds derived from lease-purchase financing methods. This amount shall be available as necessary for site acquisition, site studies and suitability reports, environmental studies, master planning, architectural programming, schematics, preliminary plans, working drawings, construction, and long lead and equipment items.

(d) The State Public Works Board may authorize the augmentation of the cost of the construction of the projects set forth in this section pursuant to the board's authority under Section 13332.11. In addition, the State Public Works Board may authorize any additional amounts necessary to pay the costs of financing, including the payment of interest during construction of the project, any additional amount as may be authorized by the board to pay the cost of financing a reserve fund, and the cost of issuance of permanent financing for the project. This additional amount may include interest during acquisition or construction of the facility, interest payable on any interim loan for the facility from the Pooled Money Investment Account pursuant to Section 16312, a reasonably required reserve fund, and the costs of issuance of permanent financing of the facility.

SEC. 54. The heading of Article 7.7 (commencing with Section 16419) of Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code, as added by Chapter 942 of the Statutes of 1989, is amended and renumbered to read:

Article 7.6. Contingency Reserve for Economic Uncertainties

SEC. 55. Section 16419 of the Government Code, as added by Chapter 942 of the Statutes of 1989, is amended and renumbered to read:

16418.5. (a) Notwithstanding any other provision of law, each special fund shall include a contingency reserve for economic uncertainties. These reserves shall constitute reserve funds within the meaning of Section 5 of Article XIII B of the California Constitution.

(b) On the first day of each fiscal year, or on the day that the

Budget Act for that fiscal year is chaptered, whichever occurs later, an amount sufficient for any appropriation made by that Budget Act or by any other statute from the fund in which the reserve account is established, shall be appropriated from each reserve account in each special fund.

(c) On the last day of each fiscal year, the unappropriated balance in each special fund shall be appropriated to the reserve account in that special fund.

SEC. 56. Article 7.7 (commencing with Section 16419) of Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code, as added by Chapter 13 of the Statutes of the 1989–90 First Extraordinary Session, is repealed.

SEC. 57. Section 25905 of the Government Code is amended to read:

25905. The board of supervisors may contract with a nonprofit corporation or association for the conducting of an agricultural fair, as agent of the county, for a period not exceeding five years. Such contract may provide for the use, possession, and management of any public park or fairgrounds by such nonprofit corporation, as agent of the county, during the period of the contract.

All net proceeds received by such nonprofit corporation, from whatever source, shall be deposited within 60 days after the conclusion of any fair in a county fair fund which shall be established in the county treasury for such purpose. The moneys in the fund shall be expended only for support of the county fair, including maintenance and operation of the county fair facilities, premiums, purposes incidental to the fair, capital outlay for fair purposes and for the acquisition or purchase of real property to be used for fair purposes.

The corporation shall submit an annual budget to the State Department of Food and Agriculture, showing the estimated revenues and the proposed expenditures from all sources during the ensuing calendar year, which budget shall first be approved by the county board of supervisors and shall be considered as complying with Part 4 (commencing with Section 4401) of Division 3 of the Food and Agricultural Code relating to budgets.

Any other provisions of law relating to county fairs as a condition to receiving an allocation of state money for fair purposes shall be observed by such nonprofit corporation.

When such use, possession, and management is granted, the board may also allocate and pay to such nonprofit corporation in advance such sum of money it deems necessary to be used for the purposes for which such use, possession, and management is granted.

SEC. 58. Section 31602 of the Government Code is amended to read:

31602. Notwithstanding any other provision of law, the board of retirement, or, in counties that have established a board of investments, the board of investments, may establish a program utilizing the retirement fund to assist system members and

annuitants, through financing, to obtain homes in this state.

The board shall adopt regulations governing the program which shall, among other things, provide:

(a) That home loans be made available to currently employed members and annuitants for the purchase of single-family dwellings, two-family dwellings, three-family dwellings, four-family dwellings, single-family cooperative apartments, and single-family condominiums.

(b) That private lending institutions in this state shall originate and service its home loans pursuant to agreements entered into between those institutions and the board.

(c) That the recipients of the loans occupy the homes as their permanent residences in accordance with the rules and regulations established by the board.

(d) That its home loans shall be available only for the purchase or refinancing of homes in this state and that under no condition shall a member or annuitant have more than one outstanding loan.

(e) That the amount and length of the loans shall be pursuant to a schedule periodically established by the board which shall provide a loan to value ratio of: (1) for the first loan, except for three-family dwellings and four-family dwellings, a maximum of 95 percent of the first loan; (2) for the first loan on three-family dwellings and four-family dwellings, a maximum of 90 percent of the first loan; and (3) for each additional loan, a maximum of 80 percent of each additional loan. The portion of any loan exceeding 80 percent of value shall be insured by an admitted mortgage guaranty insurer conforming to Chapter 2A (commencing with Section 12640.01) of Part 6 of Division 2 of the Insurance Code in an amount so that the unguaranteed portion of the loan does not exceed 75 percent of the market value of the property together with improvements thereon.

(f) That there may be prepayment penalties assessed on its loan in accordance with the rules and regulations established by the board.

(g) That the criteria and terms for its loans shall provide the greatest benefit to members and annuitants consistent with the financial integrity of the program and the sound investment of the retirement fund.

(h) Any other terms and conditions as the board shall deem appropriate.

SEC. 59. Section 53086 of the Government Code, as added by Chapter 1116 of the Statutes of 1990, is amended and renumbered to read:

53075.6. Whenever a peace officer arrests any person for operating as a taxicab without a valid taxicab certificate, license, or permit required by any ordinance, and the offense occurred at a public airport, within 100 feet of a public airport, or within two miles of the international border between the United States and Mexico, the peace officer may impound and retain possession of any vehicle used in a violation of the ordinance.

If the vehicle is seized from a person who is not the owner of the vehicle, the impounding authority shall immediately give notice to the owner by first-class mail.

The vehicle shall immediately be returned to the owner without cost to the owner if the infraction or violation is not prosecuted or is dismissed, the owner is found not guilty of the offense, or it is determined that the vehicle was used in violation of the ordinance without the knowledge and consent of the owner. Otherwise, the vehicle shall be returned to the owner upon payment of any fine ordered by the court. After the expiration of six weeks from the final disposition of the criminal case, the impounding authority may deal with the vehicle as lost or abandoned property under Section 1411 of the Penal Code.

At any time, a person may make a motion in municipal court for the immediate return of a vehicle on the ground that there was no probable cause to seize it or that there is some other good cause, as determined by the court, for the return of the vehicle.

No peace officer, however, shall impound any vehicle owned or operated by a nonprofit organization exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code which serves youth or senior citizens and provides transportation incidental to its programs or services.

SEC. 60. Section 65590 of the Government Code, as added by Chapter 1145 of the Statutes of 1990, is amended and renumbered to read:

65591. This article may be cited and shall be known as the Water Conservation in Landscaping Act.

SEC. 61. Section 65591 of the Government Code is amended and renumbered to read:

65591.2. The Legislature finds and declares all of the following:

(a) The waters of the state are of limited supply and are subject to ever increasing demands.

(b) The continuation of California's economic prosperity is dependent on adequate supplies of water being available for future uses.

(c) It is the policy of the state to promote the conservation and efficient use of water and to prevent the waste of this valuable resource.

(d) Landscapes are essential to the quality of life in California by providing areas for active and passive recreation and as an enhancement to the environment by cleaning air and water, preventing erosion, offering fire protection, and replacing ecosystems lost to development.

(e) Landscape design, installation, and maintenance can and should be water efficient.

SEC. 62. Section 65850.2 of the Government Code is amended to read:

65850.2. (a) Not later than July 1, 1989, each city and each county shall include in its application for a building permit a place for the

applicant to indicate whether the applicant or future building occupant will need to comply with the applicable requirements of Sections 25505, 25533, and 25534 of the Health and Safety Code and the requirements for a permit for construction or modification from the air pollution control district or air quality management district exercising jurisdiction in the area governed by the city or county. This subdivision does not apply to applications for residential construction.

(b) Not later than July 1, 1989, no city or county shall issue a final certificate of occupancy unless the applicant has met or is meeting the applicable requirements of Sections 25505, 25533, and 25534 of the Health and Safety Code and the requirements for a permit from the air pollution control district or air quality management district exercising jurisdiction in the area governed by the city or county or has provided proof from the appropriate district that the permit requirements do not apply to the applicant. This section shall not apply to applications for residential construction.

(c) On and after July 1, 1989, no city or county shall permit a facility to be constructed within 1,000 feet from the outer boundary of a school without meeting the requirements of Sections 25534 and 42303 of the Health and Safety Code. The risk management and prevention program and information required by Section 42303 of the Health and Safety Code shall not be accepted by the city or county unless approved by the administering agency. The information required by Section 42303 of the Health and Safety Code shall not be accepted by the city or county unless the air pollution control officer certifies that the applicant is in compliance with the required disclosures.

(d) The city or county, after considering the recommendations of the air pollution control district or air quality management district, shall decide whether, and under what conditions, to allow construction at the site.

(e) Nothing in this section limits any existing authority of a district to require compliance with its rules and regulations.

(f) Counties and cities may adopt a schedule of fees for building permit applications sufficient to recover their reasonable costs of carrying out this section.

SEC. 63. Section 65852.6 of the Government Code is amended to read:

65852.6. (a) It is the policy of the state to permit breeding and the maintaining of homing pigeons consistent with the preservation of public health and safety.

(b) For purposes of this section, a "homing pigeon," sometimes referred to as a racing pigeon, is a bird of the order Columbae. It does not fall in the category of "fowl" which includes chickens, turkeys, ducks, geese, and other domesticated birds other than pigeons.

SEC. 64. Section 65915 of the Government Code is amended to read:

65915. (a) When a developer of housing proposes a housing

development within the jurisdiction of the local government, the city, county, or city and county shall provide the developer incentives for the production of lower income housing units within the development if the developer meets the requirements set forth in subdivisions (b) and (c). The city, county, or city and county shall adopt an ordinance which shall specify the method of providing developer incentives.

(b) When a developer of housing agrees or proposes to construct at least (1) 20 percent of the total units of a housing development for lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (2) 10 percent of the total units of a housing development for very low income households, as defined in Section 50105 of the Health and Safety Code, or (3) 50 percent of the total dwelling units of a housing development for qualifying residents, as defined in Section 51.2 of the Civil Code, a city, county, or city and county shall either (1) grant a density bonus and at least one of the concessions or incentives identified in subdivision (h) unless the city, county, or city and county makes a written finding that the additional concession or incentive is not required in order to provide for affordable housing costs as defined in Section 50052.5 of the Health and Safety Code or for rents for the targeted units to be set as specified in subdivision (c), or (2) provide other incentives of equivalent financial value based upon the land cost per dwelling unit.

(c) A developer shall agree to and the city, county, or city and county shall ensure continued affordability of all lower income density bonus units for 30 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. Those units targeted for lower income households, as defined in Section 50079.5 of the Health and Safety Code, shall be affordable at a rent that does not exceed 30 percent of 60 percent of area median income. Those units targeted for very low income households, as defined in Section 50105 of the Health and Safety Code, shall be affordable at a rent that does not exceed 30 percent of 50 percent of area median income. If a city, county, or city and county does not grant at least one additional concession or incentive pursuant to paragraph (1) of subdivision (b), the developer shall agree to and the city, county, or city and county shall ensure continued affordability for 10 years of all lower income housing units receiving a density bonus.

(d) A developer may submit to a city, county, or city and county a preliminary proposal for the development of housing pursuant to this section prior to the submittal of any formal requests for general plan amendments, zoning amendments, or subdivision map approvals. The city, county, or city and county shall, within 90 days of receipt of a written proposal, notify the housing developer in writing of the procedures under which it will comply with this section. The city, county, or city and county shall establish procedures for carrying out this section, which shall include

legislative body approval of the means of compliance with this section. The city, county, or city and county shall also establish procedures for waiving or modifying development and zoning standards which would otherwise inhibit the utilization of the density bonus on specific sites. These procedures shall include, but not be limited to, such items as minimum lot size, side yard setbacks, and placement of public works improvements.

(e) The housing developer shall show that the waiver or modification is necessary to make the housing units economically feasible.

(f) For the purposes of this chapter, "density bonus" means a density increase of at least 25 percent over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan as of the date of application by the developer to the city, county, or city and county. The density bonus shall not be included when determining the number of housing units which is equal to 10 or 20 percent of the total. The density bonus shall apply to housing developments consisting of five or more dwelling units.

(g) "Housing development," as used in this section, means one or more groups of projects for residential units constructed in the planned development of a city, county, or city and county. For purposes of calculating a density bonus, the residential units do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.

(h) For purposes of this chapter, concession or incentive means any of the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements which exceed the minimum building standards approved by the State Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required.

(2) Approval of mixed use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.

(3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county which result in identifiable cost reductions.

This subdivision does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, county, or city and

county, or the waiver of fees or dedication requirements.

(i) If a developer agrees to construct both 20 percent of the total units for lower income households and 10 percent of the total units for very low income households, the developer is entitled to only one density bonus and at least one additional concession or incentive identified in Section 65913.4 under this section although the city, city and county, or county may, at its discretion, grant more than one density bonus.

SEC. 65. Section 66532 of the Government Code, as added by Chapter 17 of the Statutes of the 1989–90 First Extraordinary Session, is repealed.

SEC. 66. Section 69908 of the Government Code, as added by Chapter 1232 of the Statutes of 1990, is amended and renumbered to read:

69909. (a) In the County of Riverside, in addition to any other compensation and benefits, each judge of the superior court shall receive the county flexible benefits plan.

(b) Subject to approval by the board of supervisors, each judge of the superior court shall receive long-term disability insurance to the same extent as provided by the County of Riverside for other elected county officials.

SEC. 67. Section 77301 of the Government Code is amended to read:

77301. A county shall notify the state of its decision to opt into the system by transmitting to the Secretary of State and the Controller a resolution, agreeing without qualification or condition to be bound by the provisions of this chapter in consideration for state funding of trial courts in that county.

The resolution shall be signed by the chairperson of the board of supervisors, the presiding judge of the superior court, and the presiding judge of the municipal court district in which the county seat is located, if there is a municipal court, or if there is no such municipal court district, the judge of the justice court district in which the county seat is located, and shall certify that a majority of each of the board of supervisors, the judges of the superior court, and the judges of the municipal and justice courts in the county requests state funding. However, in a county having only one superior court judge, no municipal court judge, and only one justice court judge who serves one-fifth time, as determined by the Judicial Council, only the superior court judge may so sign and certify for the judges of the county.

The option notification for the second half of the 1988–89 fiscal year shall be deemed effective on January 1, 1989. In subsequent years, the option notification shall become effective for the full fiscal year on the July 1 following notification, if sufficient moneys have been appropriated in the Budget Act for the fiscal year to adequately fund the program.

SEC. 68. Section 1199.200 of the Health and Safety Code is amended and renumbered to read:

1799.200. (a) The State Department of Health Services shall contract with an organization with expertise in program evaluation, pediatric emergency medical services, and critical care, for the purposes specified in subdivision (b).

(b) The contractor, in consultation with a professional pediatric association, a professional emergency physicians association, a professional emergency medical services medical directors association, the Emergency Medical Services Authority, and the State Department of Health Services, shall perform a study that will identify the outcome criteria which can be used to evaluate pediatric critical care systems. This study shall include, but not be limited to, all of the following:

(1) Development of criteria to identify how changes in pediatric critical care systems affect the treatment of critically ill and injured children.

(2) Development of criteria to compare the systems in place in various areas of the state.

(3) Determination of whether the necessary data is currently available.

(4) Estimate of the cost to providers, such as emergency medical service agencies and hospitals, of collecting this data.

(5) Recommendations concerning the most reliable and cost-effective monitoring plan for use by agencies and facilities at the state, regional, and local levels.

SEC. 69. Section 1199.201 of the Health and Safety Code is amended and renumbered to read:

1799.201. The contractor shall submit the results of the study to the Legislature and the Governor not later than January 1, 1991.

SEC. 70. Section 1397 of the Health and Safety Code is amended to read:

1397. (a) Whenever reference is made in this chapter to a hearing before or by the commissioner, the hearing shall be held in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and the commissioner shall have all of the powers granted under that act.

(b) Every final order, decision, license, or other official act of the commissioner under this chapter is subject to judicial review in accordance with the law.

SEC. 71. Section 1568.12 of the Health and Safety Code is amended to read:

1568.12. The following powers and duties are hereby vested in the department:

(a) The department shall supervise a program in specialized day care-resource centers for participants developed pursuant to this chapter.

(b) (1) The department shall conduct a grants-in-aid program, subject to the funds appropriated, for that purpose.

(2) The maximum award by the department to any grantee shall

be sixty thousand dollars ($60,000) per year, and a grantee shall be required to match not less than 25 percent of the amount granted. The use of the grants shall be limited to the expenses of administration, staffing, operating expenses, such as rent and utilities, equipment, and required renovation expenses.

(3) The matching contribution of the grantee may include cash or in-kind contributions, and the in-kind contribution may include the value of staffing or volunteer services, or both.

(4) Grants shall be awarded in different geographical areas of the state. Grantees shall include at least one urban and one rural center, with representation from the north, south, and central regions of the state.

(5) When evaluating proposals for grants, preference shall be given to proposals that will serve clients in underserved areas or areas without existing Alzheimer's day care-resource centers.

(c) The department shall adopt policies, priorities, and guidelines to carry out the purposes of this chapter, and the adoption thereof shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

The Long-Term Care Committee, established by Section 1572, shall make recommendations to the department on the selection of grantees to operate Alzheimer's day care-resource centers.

Subject to funds appropriated for that purpose, the department shall allocate the funds necessary to continue operation of the Alzheimer's day care-resource centers, administered pursuant to this part, during the 1987–88, 1988–89, 1989–90, and 1990–91 fiscal years.

SEC. 72. Section 1794 of the Health and Safety Code is amended and renumbered to read:

1793.5. (a) Any entity which sells deposit subscriptions proposing to promise to provide care without having a current and valid permit to sell deposit subscriptions is guilty of a misdemeanor.

(b) Any entity which sells deposit subscriptions and fails to place any consideration received into an escrow account pursuant to this chapter is guilty of a misdemeanor.

(c) Any entity which executes a continuing care contract without holding a current and valid provisional or final certificate of authority is guilty of a misdemeanor.

(d) Each violation of subdivision (a), (b), or (c) is subject to a fine not to exceed ten thousand dollars ($10,000), or by imprisonment in the county jail for a period not to exceed one year, or by both the fine and imprisonment.

(e) Any entity that issues, delivers, or publishes, or as manager or officer or in any other administrative capacity, assists in the issuance, delivery, or publication of any printed matter, oral representation, or advertising material which does not conform to the requirements of this section is guilty of a misdemeanor.

(f) Any violation of subdivision (e) shall constitute cause for the suspension of all and any licenses, permits, and certificates of authority issued to such person, organization, provider, association,

or corporation by any agency of the state.

SEC. 73. Section 1794.2 of the Health and Safety Code is amended and renumbered to read:

1793.7. A permit to sell deposit subscriptions or a certificate of authority shall be forfeited by operation of law prior to its expiration date when any one of the following occurs:

(a) The applicant or provider sells or otherwise transfers the facility or facility property and when the transfer of stock constitutes a major change in ownership.

(b) The applicant or provider surrenders the permit to sell deposit subscriptions or certificate of authority to the department.

(c) The applicant or provider moves a facility from one location to another.

(d) The applicant or provider abandons the facility.

(e) The facility is sold.

(f) The applicant or provider is evicted from the facility premises.

SEC. 74. Section 1794.4 of the Health and Safety Code is amended and renumbered to read:

1793.9. (a) Obligations pursuant to continuing care agreements executed by a provider shall be deemed a preferred claim against all assets owned by the provider in the event of liquidation. However, this preferred claim shall be subject to any perfected claims secured by mortgage, deed of trust, pledge, deposit as security, escrow, or otherwise secured.

(b) For purposes of computing the reserve required pursuant to Section 1792.2, the liens required under Section 1793.15 shall not be deducted from the value of real or personal property.

SEC. 75. Section 1794.6 of the Health and Safety Code is amended and renumbered to read:

1793.11. (a) Any transfer of money or property, pursuant to a continuing care contract found by the department to be executed in violation of this chapter, is voidable at the option of the transferor for a period of 90 days from the execution of the transfer.

(b) No action may be brought for the reasonable value of any services rendered between the date of transfer and the date the transferor disaffirms the contract.

(c) With respect to real property, the right of disaffirmance or rescission is conclusively presumed to have terminated if a notice of intent to rescind is not recorded with the county recorder of the county in which the real property is located within 90 days from the date of execution of the conveyance by the transferor.

(d) Any deed or other instrument of conveyance shall contain a recital that the transaction is made pursuant to rescission by the transferor within 90 days from the date of the transfer.

(e) Any transfer of a sum of money or property, real or personal, to anyone pursuant to a continuing care contract that was not approved by the department is voidable at the option of the department or transferor or his or her assigns or agents.

(f) Any transaction determined by the department to be in

violation of this chapter is voidable at the option of the transferor or his or her assigns or agents.

SEC. 76. Section 1794.8 of the Health and Safety Code is amended and renumbered to read:

1793.13. (a) In either of the following situations the department may require the provider to submit within 60 days a financial plan detailing the method by which the provider proposes to overcome the deficiencies noted by the department.

(1) If a provider fails to file an annual report as required by Section 1790.

(2) At any other time when the department has reason to believe that the provider is insolvent, is in imminent danger of becoming insolvent, is in a financially unsound or unsafe condition, or that its condition is such that it may otherwise be unable to fully perform its obligations pursuant to continuing care contracts.

(b) The department shall approve or disapprove the plan within 30 days of its receipt.

(c) If the plan is approved, the provider shall immediately implement the plan.

(d) If the plan is disapproved, or if it is determined that the plan is not being fully implemented, the department may, after consultation with and upon consideration of the recommendations of the Committee on Continuing Care Contracts, require the provider to obtain new or additional management capability to solve its difficulties. A reasonable period, as determined by the department, shall be allowed to the reorganized management to develop a plan which, subject to the approval of the department and after review by the committee, will reasonably assure that the provider will meet its responsibilities under the law.

SEC. 77. Section 1794.10 of the Health and Safety Code, as added by Chapter 875 of the Statutes of 1990, is amended and renumbered to read:

1793.15. (a) When necessary to secure the performance of all obligations of the applicant or provider to transferors, the department may record a notice or notices of lien on behalf of the transferors. From the date of recording, the lien shall attach to all real property owned or acquired by the provider during the pendency of the lien, provided such property is not exempt from the execution of a lien and is located within the county in which the lien is recorded. The lien shall have the force, effect, and priority of a judgment lien.

(b) The department shall file a release of the lien if the department deems the lien no longer necessary to secure the performance of all obligations of the applicant or provider to the transferors.

(c) The applicant or provider may appeal to the department from a refusal of a request for a release of the lien.

(d) The decision shall be subject to court review pursuant to Section 1094.5 of the Code of Civil Procedure, upon petition of the

applicant or provider filed within 30 days of service of the decision.

SEC. 78. Section 1794.12 of the Health and Safety Code, as added by Chapter 875 of the Statutes of 1990, is amended and renumbered to read:

1793.17. (a) When necessary to secure the interests of transferors, the department may require that the applicant or provider reestablish an escrow account, return previously released moneys to escrow, and escrow all future entrance fee payments.

(b) The department may release funds from escrow when it deems the escrow is no longer necessary to secure the performance of all obligations of the applicant or provider to the transferors.

SEC. 79. Section 1794.14 of the Health and Safety Code, as added by Chapter 875 of the Statutes of 1990, is amended and renumbered to read:

1793.19. The civil, criminal, and administrative remedies available to the department pursuant to this article are not exclusive and may be sought and employed in any combination deemed advisable by the department to enforce this chapter.

SEC. 80. Section 1794.16 of the Health and Safety Code, as added by Chapter 875 of the Statutes of 1990, is amended and renumbered to read:

1793.21. (a) The department, in its discretion, may limit, suspend, or revoke any permit to sell deposit subscriptions or certificates of authority issued under this chapter if it finds any one or more of the following:

(1) Violation by the provider of this chapter or the rules and regulations adopted under this chapter.

(2) Aiding, abetting, or permitting the violation of this chapter or the rules and regulations adopted under this chapter.

(3) Suspension or revocation of the license of the provider pursuant to the licensing provisions of Chapter 2 (commencing with Section 1250) or Chapter 3.2 (commencing with Section 1569).

(4) Material misstatement, misrepresentation, or fraud in obtaining the permit to sell deposit subscriptions or certificates of authority.

(5) Demonstrated lack of fitness or trustworthiness.

(6) Fraudulent or dishonest practices of management in the conduct of business.

(7) Misappropriation, conversion, or withholding of moneys.

(8) Refusal by the provider to be examined or to produce its accounts, records, and files for examination, or refusal by any of its officers to give information with respect to its affairs or to perform any other legal obligations as to such examination, when required by the department.

(9) The provider's unsound financial condition or use of such methods and practices in the conduct of business as to render further transactions by the provider hazardous or injurious to the public.

(10) Failure to maintain at all times at least the minimum statutory reserves required by Section 1792.2.

(11) Failure to maintain the reserve fund escrow account for prepaid continuous care contracts required by Section 1792.

(12) Failure to comply with the refund reserve requirements of Section 1793.

(13) Failure by the provider to maintain escrow accounts for funds as required by this chapter.

(14) Failure to file an annual report as required by Section 1790, after notice that the report is due.

(15) Violation of a limitation on a certificate.

(16) Failure to comply with its approved financial and marketing plan, or secure approval of a modified plan.

(17) A material change or deviation from the approved plan of operation without the prior consent of the department.

(18) Failure by the provider to fulfill its obligations under continuing care contracts.

SEC. 81. Section 1794.18 of the Health and Safety Code, as added by Chapter 875 of the Statutes of 1990, is amended and renumbered to read:

1793.23. (a) The department shall consult with and consider the recommendations of the Committee on Continuing Care Contracts prior to limiting, suspending, or revoking any permit to sell deposit subscriptions or certificate of authority.

(b) The provider shall have a right of appeal to the department. The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all of the powers granted therein. A suspension, limitation, or revocation shall remain in effect until completion of the proceedings in favor of the provider. In all proceedings conducted in accordance with this section, the standard of proof to be applied shall be by a preponderance of the evidence.

(c) The department may, upon finding of changed circumstances, remove a suspension or limitation.

SEC. 82. Section 1794.20 of the Health and Safety Code, as added by Chapter 875 of the Statutes of 1990, is amended and renumbered to read:

1793.25. (a) During the period that the revocation or suspension action is pending against the permit to sell deposit subscriptions or certificate of authority, the provider shall not enter into any new contracts or deposit subscription agreements.

(b) The suspension or revocation by the department, or voluntary return of the certificate of authority by the provider, shall not release the provider from obligations assumed at the time the continuing care contracts were executed.

SEC. 83. Section 1794.22 of the Health and Safety Code, as added by Chapter 875 of the Statutes of 1990, is amended and renumbered to read:

1793.27. (a) If the department finds that one or more grounds exist for the discretionary limitation, revocation, or suspension of a

permit to sell deposit subscriptions or a certificate of authority issued under this chapter, the department, in lieu of the limitation, revocation, or suspension, may impose a civil penalty upon the provider in an amount not to exceed one thousand dollars ($1,000) per violation.

(b) The civil penalty shall be deposited in a segregated bank account and shall be disbursed for the specific purposes of offsetting the costs of investigation and litigation and to compensate court-appointed administrators when facility assets are insufficient.

SEC. 84. Section 1794.24 of the Health and Safety Code, as added by Chapter 875 of the Statutes of 1990, is amended and renumbered to read:

1793.29. In the case of any violation or threatened violation of this chapter, the department may institute a proceeding or may request the Attorney General to institute a proceeding to obtain injunctive or other equitable relief in the superior court in and for the county in which the violation occurs, or in which the principal place of business of the provider is located. The proceeding under this section shall conform with the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that no undertaking shall be required of the department in any action commenced under this section, nor shall the department be required to allege facts necessary to show lack of adequate remedy at law, or to show irreparable loss or damage.

SEC. 85. Section 1794.26 of the Health and Safety Code, as added by Chapter 875 of the Statutes of 1990, is amended and renumbered to read:

1793.31. (a) The district attorney of every county may, upon application by the department or its authorized representative, institute and conduct the prosecution of any action for violation of this chapter within his or her county.

(b) This chapter shall not limit or qualify the powers of the district attorney to institute and conduct the prosecution of any action brought for the violation within his or her county of this chapter or any other provision of law, including, but not limited to, actions for fraud or misrepresentation.

(c) The department shall provide access to any records in its control on request of a district attorney and shall cooperate in any investigation by a district attorney.

SEC. 86. Section 1794.28 of the Health and Safety Code, as added by Chapter 875 of the Statutes of 1990, is amended and renumbered to read:

1793.50. (a) The department, after consultation with the Committee on Continuing Care Contracts, may petition the superior court for an order appointing a qualified administrator to operate a facility, and thereby mitigate crisis situations wherein elderly residents are left without means for their support or moved without proper preparation, in any of the following circumstances:

(1) The provider is insolvent or in imminent danger of becoming

insolvent.

(2) The provider is in a financially unsound or unsafe condition.

(3) The provider has failed to establish or has substantially depleted the reserves required by this chapter.

(4) A plan, as specified in Section 1793.13, has not been approved by the department or the provider has failed to implement the plan approved by the department.

(5) The provider is unable to fully perform its obligations pursuant to continuing care contracts.

(6) The residents are otherwise placed in serious jeopardy.

(b) The administrator may only assume the operation of the facility in order to either rehabilitate the provider to enable it fully to perform its continuing care contract obligations, implement a plan of reorganization acceptable to the department, facilitate the transition if another provider assumes continuing care contract obligations, or facilitate an orderly liquidation of the provider.

(c) With each petition, the department shall include a request for a temporary restraining order to prevent the provider from disposing of or transferring assets pending the hearing on the petition.

(d) The provider shall be served with a copy of the petition, together with an order to appear and show cause why management and possession of the provider's facility or assets should not be vested in an administrator.

(e) The order to show cause shall specify a hearing date, which shall be not less than five nor more than 10 days following service of the petition and order to show cause on the provider.

(f) Petitions to appoint an administrator shall have precedence over all matters, except criminal matters, in the court.

(g) At the time of the hearing, the department shall advise the provider and the court of the name of the proposed administrator.

(h) If, at the conclusion of the hearing, including such oral evidence as the court shall consider, the court finds that any of the circumstances specified in subdivision (a) exist, the court shall issue an order appointing an administrator to take possession of the property of the provider and to conduct the business thereof, enjoining the provider from interfering with the administrator in the conduct of the rehabilitation, and directing the administrator to take steps toward removal of the causes and conditions which have made rehabilitation necessary, as the court may direct.

(i) The order shall include a provision directing the issuance of a notice of the rehabilitation proceedings to the residents at the facility and to other interested persons as the court shall direct.

(j) The court may permit the provider to participate in the continued operation of the facility during the pendency of any appointments ordered pursuant to this section and shall specify in the order the nature and scope of the participation.

(k) The court shall retain jurisdiction throughout the rehabilitation proceeding and may issue further orders as it deems

necessary to accomplish the rehabilitation or orderly liquidation of the facility in order to protect the residents of the facility.

SEC. 87. Section 1794.30 of the Health and Safety Code is amended and renumbered to read:

1793.52. The department shall maintain a list of qualified persons for use by the courts in appointing an administrator pursuant to this article.

SEC. 88. Section 1794.32 of the Health and Safety Code is amended and renumbered to read:

1793.54. If an administrator is appointed to rehabilitate a provider, the administrator may do any of the following:

(a) Take possession of and preserve, protect and recover any assets, books, records, or property of the provider, including, but not limited to, claims or causes of action belonging to, or which may be asserted by, the provider.

(b) Deal with the property in the administrator's name in the capacity as administrator, and purchase at any sale any real estate or other asset upon which the provider may hold any lien or encumbrance or in which the provider may have an interest.

(c) File, prosecute, and defend or compromise any suit or suits which have been filed, or which may thereafter be filed, by or against the provider as necessary to protect the provider or the residents or any property affected thereby.

(d) Deposit and invest any of the provider's available funds.

(e) Pay all expenses of the rehabilitation.

(f) Perform all duties of the provider in the provision of care and services to residents in the facility at the time the administrator takes possession.

(g) Facilitate the orderly transfer of residents should the provider ultimately fail.

(h) Exercise any other powers and duties as may be authorized by law or provided by order of the court.

SEC. 89. Section 1794.34 of the Health and Safety Code is amended and renumbered to read:

1793.56. (a) Reasonable compensation shall be paid to the administrator appointed.

(b) Costs for the compensation shall be levied against the assets of the provider.

(c) Any individual appointed administrator, pursuant to Section 1793.50, shall be held harmless for any negligence in the performance of his or her duties and shall be indemnified by the provider for costs of defending actions brought against him or her in his or her capacity as administrator.

SEC. 90. Section 1794.36 of the Health and Safety Code is amended and renumbered to read:

1793.58. (a) The department, administrator, or any interested person, upon due notice to the administrator, at any time, may apply to the court for an order terminating the rehabilitation proceedings and permitting the provider to resume possession of the provider's

property and the conduct of the provider's business.

(b) No order shall be granted pursuant to subdivision (a) except when, after a full hearing, the court has determined that the purposes of the proceeding have been fully and successfully accomplished and that the facility can be returned to the provider's management without further jeopardy to the residents of the facility, creditors, owners of the facility, and to the public.

(c) An order terminating the rehabilitation proceeding shall be based upon a full report and accounting by the administrator of the conduct of the provider's officers, employees, and business during the rehabilitation and of the provider's current financial condition.

(d) Upon issue of an order terminating the rehabilitation, the department shall reinstate the certificate of authority and may limit, suspend, or revoke the reinstated certificate only upon a change in the conditions at the time of the order or a determination of facts which, if such facts had been known at the time of the order, the court would not have entered the order as determined by the department.

SEC. 91. Section 1794.38 of the Health and Safety Code is amended and renumbered to read:

1793.60. (a) If at any time the department determines that further efforts to rehabilitate the provider would not be in the best interest of the residents or prospective residents, or would not be economically feasible, the director may, with the approval of the Committee on Continuing Care Contracts, apply to the court for an order of liquidation and dissolution or may apply for other appropriate relief for dissolving the property and bringing to conclusion its business affairs.

(b) Upon issue of an order directing the liquidation or dissolution of the provider, the department shall revoke the provider's certificate.

SEC. 92. Section 1794.40 of the Health and Safety Code is amended and renumbered to read:

1793.62. (a) The department, administrator, or any interested person, upon due notice to the parties, may petition the court for an order terminating the rehabilitation proceedings when the rehabilitation efforts have not been successful, the facility has been sold at foreclosure sale, the provider has been declared bankrupt, or the provider has otherwise been shown to be unable to perform its obligations under the continuing care contracts.

(b) No order shall be granted unless all of the following have occurred:

(1) There has been a full hearing and the court has determined that the provider is unable to perform its contractual obligations.

(2) The administrator has given the court a full and complete report and financial accounting signed by the administrator as being a full and complete report and accounting.

(3) The court has determined that the residents of the facility have been protected to the extent possible and has made such orders

in this regard as the court deems proper.

SEC. 93. Section 11755.5 of the Health and Safety Code, as added by Chapter 1029 of the Statutes of 1990, is amended and renumbered to read:

11755.4. (a) To the extent funding is provided pursuant to subdivision (c), a two-year pilot project shall be established by the homeless youth project operated in the County of Los Angeles pursuant to Chapter 6 (commencing with Section 13700) of Part 3 of Division 9 of the Welfare and Institutions Code to operate an outreach program targeted at treating substance abuse problems of substance-dependent homeless youth, including juvenile prostitutes. The department shall, in consultation with the Office of Criminal Justice Planning, develop guidelines for the scope of the pilot project established pursuant to this section which shall include, but not be limited to, requiring outreach to all shelters and drop-in facilities operated by the homeless youth project established in the County of Los Angeles. The department also shall, in consultation with the Office of Criminal Justice Planning, oversee the management of the pilot project established pursuant to this section.

(b) The department, in consultation with the Office of Criminal Justice Planning, shall submit to the Legislature a written interim evaluation of the effectiveness of the pilot project established pursuant to this section in addressing the needs of substance-dependent juvenile youths by July 1, 1992, and shall submit a written final evaluation thereof by June 1, 1993.

(c) To the extent permitted by federal law, the department shall enter into a contract in the amount of two hundred thousand dollars ($200,000), utilizing unobligated federal funds, with the homeless youth project established in the County of Los Angeles for the first year of the operation of the pilot project established pursuant to this section commencing March 1, 1991. It is the intent of the Legislature to provide for the funding of the second year of the pilot project through the Budget Act.

(d) The pilot project established pursuant to this section shall cease to operate on March 1, 1993.

SEC. 94. Section 11776.5 of the Health and Safety Code is amended to read:

11776.5. (a) The department and the State Department of Mental Health shall enter into a three-year agreement to establish a minimum of five demonstration programs, to commence on July 1, 1991, approved by both departments, that address the unique treatment problems presented by persons who are mentally disordered and have alcohol and drug problems. The total number of programs in addition to the minimum of five programs required by this section, shall be determined by the mutual agreement of both departments and be based upon an assessment by each department of its ability to effectively establish, operate, and maintain the administrative processes required to achieve the purposes of this section. To the extent possible, these programs shall be distributed

among large, medium, and small counties and located in northern, central, and southern California.

(1) Each county with a demonstration program shall submit a budget for providing services. The budget shall identify by source and amount, including government funds, fees, contributions, grants, and other revenues, the money available to the demonstration program for the provision of services. The budget shall also provide a projection of expenditures necessary for the delivery of services. The budget shall list all the personnel costs, operating costs, and any other costs in sufficient detail for both departments to review the budget.

(2) In addition, each county with a demonstration program shall submit a proposed cost allocation plan describing the methodology for allocating costs among the three treatment categories of alcohol services, drug program services, and mental health services. The cost allocation plan and budget shall be approved by both departments prior to reimbursement of expenses by either department. No county or provider participating in a demonstration program shall be subject to any audit disallowance by the department or the State Department of Mental Health that results from the multiple diagnosis status of the program's clients. If a demonstration program complies with the approved cost allocation plan, the program shall be exempt from cost report control to the combined total allocation from both departments, from audit liability resulting from controls to budgeted services and mental health services, and shall also be exempt from audit liability resulting from the disallowed reimbursement received from categorical sources among alcohol services, drug program services, and mental health services when the costs are disallowed solely because of the multiple diagnosis of the clients served.

(3) The approved cost allocation plan and budget shall establish the basis for reimbursement to each demonstration program by each department in the first year of operation. Each county with a demonstration program shall submit a cost report at the end of the fiscal year in the same format as the budget format. The cost report shall be reviewed along with the required budget for each succeeding year by the departments to establish the basis for reimbursement in the succeeding two years. The cost report shall be audited and shall be subject to audit exceptions in accordance with applicable state and federal law relating to the reimbursements from those categorical sources. The cost allocation plan and required budget for the two succeeding years shall require prior approval by both departments before reimbursement of expenses by either department.

(4) Both departments shall agree on the reporting requirements, methods of interim payments, and time frames required for submission of reports.

(5) It is the intent of the Legislature that the departments not limit their consideration of prospective applicants to only those

providers that propose to establish new programs pursuant to this section, but shall also consider applications of providers that have been serving persons with multiple diagnosis prior to January 1, 1991.

(b) Each demonstration program shall submit, at the end of each fiscal year, a progress report in a format approved by the department and the State Department of Mental Health. This report shall include, but not be limited to, the following information:

(1) The number of multiple diagnosed clients served.

(2) Identification of the problems presented by the multiple diagnosed clients served.

(3) The types of services provided.

(4) The costs of services provided.

(5) The length of services provided.

(c) The department and the State Department of Mental Health shall deem a demonstration program to be successful if all of the following conditions are met:

(1) The demonstration program showed reasonable evidence that auditing guidelines and the cost allocation plans provided appropriate financial accountability.

(2) The demonstration program resulted in enhanced collaboration and cooperation at the county planning level between the mental health and drug and alcohol service delivery systems and at the state level between the department and the State Department of Mental Health.

(3) The demonstration program enabled the delivery of appropriate services to multiple diagnosed persons.

(4) The demonstration program expanded available treatment options for multiple diagnosed persons.

(5) The audit guidelines permitted the development of operable and practical cost allocation plans. The department and the State Department of Mental Health are encouraged to refine audit guidelines as necessary during the implementation of the demonstration programs.

(d) Prior to January 1, 1995, the department and the State Department of Mental Health shall submit to the Legislature an evaluation report on the demonstration programs with recommendations for statewide implementation.

(e) This section shall remain in effect only until July 1, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1994, deletes or extends that date.

SEC. 95. Section 13143.2 of the Health and Safety Code, as added by Chapter 1083 of the Statutes of 1990, is repealed.

SEC. 96. Section 13143.5 of the Health and Safety Code, as added by Chapter 1083 of the Statutes of 1990, is repealed.

SEC. 97. Section 13143.5 of the Health and Safety Code, as added by Chapter 1111 of the Statutes of 1990, is amended to read:

13143.5. (a) Notwithstanding Part 2 (commencing with Section 13100) of Division 12, Part 1.5 (commencing with Section 17910) of Division 13, and Part 2.5 (commencing with Section 18901) of

Division 13, any city, county, or city and county may, by ordinance, make changes or modifications that are more stringent than the requirements published in the California Building Standards Code relating to fire and panic safety and the other regulations adopted pursuant to this part. The adopted standards shall be reasonably necessary because of local climatic, geological, or topographical conditions. Before adopting the ordinance, the city, county, or city and county shall make an express finding that the ordinance is reasonably necessary because of local climatic, geological, or topographical conditions. The finding shall be available as a public record. A copy of the findings, together with the modification or change expressly marked and identified to which each finding refers, shall be filed with the Department of Housing and Community Development.

(b) Nothing in this section shall authorize a local jurisdiction to mandate, nor prohibit a local jurisdiction from mandating, the installation of residential fire sprinkler systems within newly constructed dwelling units or in new additions to existing dwelling units, including, but not limited to, manufactured homes as defined in Section 18007.

(c) Nothing in this section shall authorize a local jurisdiction to mandate, nor prohibit a local jurisdiction from mandating, the retrofitting of existing dwelling units for the installation of residential fire sprinkler systems, including, but not limited to, manufactured homes as defined in Section 18007.

(d) Nothing in this section shall apply in any manner to litigation filed prior to January 1, 1991, regarding an ordinance or regulation which mandates the installation of residential fire sprinkler systems within newly constructed dwelling units or new additions to existing dwelling units.

(e) This section shall not apply to fire and panic safety requirements for the public schools adopted by the State Fire Marshal pursuant to Section 13143.

(f) The same agency or entity to whom authority to enforce building standards not related to fire and panic safety is delegated by the city, county, or city and county with jurisdiction in the area affected by the building standards shall enforce any building standard adopted pursuant to this section.

(g) On or before October 1, 1991, and each October 1 thereafter, the Department of Housing and Community Development, in conjunction with the office of the State Fire Marshal, shall transmit a report to the State Building Standards Commission on the more stringent requirements, adopted by a city, county, or city and county, pursuant to this section or adopted by a fire protection district and ratified pursuant to Section 13869.7, to the building standards relating to fire and panic safety adopted by the State Fire Marshal and contained in the California Building Standards Code. The report shall be for informational purposes only and shall include a summary by the department and the office of the reasons cited as the necessity

for the more stringent requirements. The report required pursuant to this subdivision shall apply to any more stringent requirements adopted or ratified on or after January 1, 1991.

(h) All structures governed by Part 2.7 (commencing with Section 18950) of Division 13 are exempt from the permissive authority granted by subdivision (a).

SEC. 98. Section 13869.7 of the Health and Safety Code, as added by Chapter 1083 of the Statutes of 1990, is repealed.

SEC. 99. Section 22547.2 of the Health and Safety Code, as added by Chapter 891 of the Statutes of 1990, is amended and renumbered to read:

25547.2. The report specified in Section 25547.1 shall consider the availability of funding sources not currently available from the state, nonstate funding sources, and the establishment of fees, tuitions, or other financial charges as a means of funding the functions of the institute.

SEC. 100. Section 25281.5 of the Health and Safety Code is amended to read:

25281.5. (a) Notwithstanding subdivision (k) of Section 25281, for purposes of this chapter, "pipe" means all parts of any pipeline or system of pipelines, used in connection with the storage of hazardous substances, including, but not limited to, valves and other appurtenances connected to the pipe, pumping units, fabricated assemblies associated with pumping units, and metering and delivery stations and fabricated assemblies therein, but does not include any of the following:

(1) An interstate pipeline subject to Part 195 (commencing with Section 195.0) of Title 49 of the Code of Federal Regulations.

(2) An intrastate pipeline subject to Chapter 5.5 (commencing with Section 51010) of Part 1 of Division 1 of Title 5 of the Government Code.

(3) Unburied delivery hoses, vapor recovery hoses, and nozzles which are subject to unobstructed visual inspection for leakage.

(4) Vent lines, vapor recovery lines, and fill pipes which are designed to prevent, and do not hold, standing fluid in the pipes or lines.

(b) In addition to the exclusions specified in subdivision (x) of Section 25281, "underground storage tank" does not include vent lines, vapor recovery lines, and fill pipes which are designed to prevent, and do not hold, standing fluid in the pipes or lines.

SEC. 101. Section 26569.30 of the Health and Safety Code is amended to read:

26569.30. (a) On or after January 1, 1992, the term "certified" and variations of that term may be used in connection with food sold as organic only in accordance with this section, subdivisions (c) and (d) of Section 26569.24, Sections 26569.31 to 26569.34, inclusive, and Section 46009 of the Food and Agricultural Code.

(b) Food sold as organic may be certified only by a certification organization registered pursuant to subdivisions (c) and (d), by the

director pursuant to subdivision (e), or by a county agricultural commissioner pursuant to Section 46009 of the Food and Agricultural Code.

(c) In order to be registered, a certification organization shall meet all of the following minimum qualifications:

(1) Be the certification organization for at least 10 legally separate and distinct, financially unrelated, and independently controlled persons involved in the production or processing of food sold as organic.

(2) Be a legally separate and distinct entity from any person whose food is certified by the organization. A certification organization shall be considered legally separate and distinct notwithstanding the fact that persons or representatives of persons whose food is certified serve as directors, officers, or in other capacities for the certification organization, so long as those persons or representatives of those persons do not exercise decisionmaking authority over certification of that particular food.

(3) Have no financial interest in the sale of the food, except that fees charged by the certification organization to cover the reasonable costs of operating the certification organization do not constitute a financial interest for purposes of this section.

(d) On or after January 1, 1991, a certification organization which certifies processed food sold as organic, except for processed meat, fowl, or dairy products, shall have registered with the director and shall thereafter annually renew the registration unless no longer engaged in the activities requiring the registration. Registration shall be on a form provided by the director, shall include the filing of a certification plan as specified in Section 26569.33 and payment of the fee specified in subdivision (f). The director shall make forms available for this purpose on or before July 31, 1991. The registration form shall include the names of all persons involved in making certification decisions or setting certification standards for the certification organization. The director shall reject a registration submission that is incomplete or not in compliance with this article.

(e) On or after July 31, 1991, the director may, upon the request of a sufficient number of persons to fund the program's cost, establish and maintain a certification program for processors of food sold as organic and shall establish and collect a fee from all processors of food certified under that program to cover all of the department's costs of administering the program. The certification program shall be subject to all provisions regarding certification organizations contained in this article, except that the requirements of subdivisions (c) and (d) shall not apply.

(f) The director shall supervise all certification organizations registered with the department, shall establish a complaint procedure concerning noncompliance with this article by certification organizations registered with the department, and shall establish and collect an annual registration fee based on the unit of weight or measure, gross sales or other measure of the amount of

food certified by the organization, to cover the costs of the supervision. The registration fee established by the department shall not exceed two thousand dollars ($2,000) per organization. Supervision shall include a written evaluation of the organization's certification plan at least biannually. The written evaluation shall be made available for public inspection.

(g) The director shall have the authority to audit the organization's certification procedures and records at any time. Records of certification organizations not otherwise required to be disclosed shall be kept confidential by the director.

SEC. 102. Section 26569.40 of the Health and Safety Code is amended to read:

26569.40. (a) It is unlawful for any person to produce, handle, or process food sold as organic unless duly registered pursuant to Section 26569.35.

(b) It is unlawful for any person to willfully make a false statement or representation, or knowingly fail to disclose a fact required to be disclosed, in registration pursuant to Section 26569.35.

SEC. 103. Section 28518.8 of the Health and Safety Code is amended to read:

28518.8. (a) Except to the extent otherwise provided in Section 28502 and subdivision (e) of Section 28506, or when a violation is asserted pursuant to Section 28517, when the department asserts a violation of this chapter, all affected persons shall be afforded an opportunity for an administrative hearing after 20 days notice.

(b) The notice shall include all of the following:

(1) A statement of the time, place, and nature of the hearing.

(2) A statement of the legal authority and jurisdiction under which the hearing is to be held.

(3) A reference to the particular sections of the statutes, regulations, and rules involved.

(4) A short and plain statement of the matters asserted.

(c) Opportunity shall be afforded all persons to respond and present evidence on the issues involved.

(d) Hearings authorized or required by this chapter shall be conducted by the department or any agent as the department may designate for that purpose.

(e) Oral proceedings or any part thereof shall be transcribed at the request of any person. The person requesting the transcription shall bear the cost of the transcript.

(f) Final decisions or orders adverse to any person shall be in writing or stated in the record. A final decision shall include findings of fact and conclusions of law, which shall be separately stated. Persons shall be notified either personally or by mail of any decision or order.

SEC. 104. Part 1.6 (commencing with Section 34050) of Division 24 of the Health and Safety Code, as added by Chapter 5 of the Statutes of the 1989–90 First Extraordinary Session, is repealed.

SEC. 105. Part 4 (commencing with Section 35450) of Division 24

of the Health and Safety Code, as added by Chapter 1246 of the Statutes of 1955, is repealed.

SEC. 106. Section 50661.7 of the Health and Safety Code, as added by Chapter 3 of the Statutes of the 1989–90 First Extraordinary Session, is repealed.

SEC. 107. Section 50661.7 of the Health and Safety Code, as added by Chapter 4 of the Statutes of the 1989–90 First Extraordinary Session, is repealed.

SEC. 108. Section 50661.7 of the Health and Safety Code, as added by Chapter 5 of the Statutes of the 1989–90 First Extraordinary Session, is repealed.

SEC. 109. Section 50781 of the Health and Safety Code is amended to read:

50781. Unless the context otherwise requires, the following definitions given in this section shall control construction of this chapter:

(a) "Affordable" means that, where feasible, low-income residents should not pay more than 30 percent of their monthly income for housing costs.

(b) "Conversion costs" includes the cost of acquiring the mobilehome park, the costs of planning and processing the conversion, the costs of any needed repairs or rehabilitation, and any expenditures required by a governmental agency or lender for the project.

(c) "Department" means the Department of Housing and Community Development.

(d) "Fund" means the Mobilehome Park Purchase Fund created pursuant to Section 50782.

(e) "Housing costs" means the total cost of owning, occupying, and maintaining a mobilehome and a lot or space in a mobilehome park. The department's regulations shall specify the factors included in these costs and may, for the purposes of calculating affordability, establish reasonable allowances.

(f) "Individual interest in a mobilehome park" means any interest which is fee ownership or a lesser interest which entitles the holder to occupy a lot or space in a mobilehome park for a period of not less than either 15 years or the life of the holder. Individual interests in a mobilehome park include, but are not limited to, the following:

(1) Ownership of a lot or space in a mobilehome park or subdivision.

(2) A membership or shares in a stock cooperative, as defined in Section 11003.2 of the Business and Professions Code, or a limited equity housing cooperative, as defined in Section 33007.5 of the Health and Safety Code.

(3) Membership in a nonprofit mutual benefit corporation which owns, operates, or owns and operates the mobilehome park.

(g) "Low-income resident" means an individual or household who is a lower income household, as defined in Section 50079.5. However, personal assets shall not be considered in the calculation

of income, except to the extent that they actually generate income.

(h) "Low-income spaces" means those spaces in a mobilehome park operated by a resident organization which are occupied by low-income residents.

(i) "Mobilehome park" means a mobilehome park, as defined in Section 18214, or a manufactured home subdivision created by the conversion to resident ownership of a mobilehome park, as defined in Section 18214, including a senior park.

(j) "Program" means the Mobilehome Park Resident Ownership Program.

(k) "Resident organization" means a group of mobilehome park residents who have formed a nonprofit corporation, cooperative corporation, or other entity or organization for the purpose of acquiring the mobilehome park in which they reside and converting the mobilehome park to resident ownership. The membership of a resident organization shall include at least two-thirds of the households residing in the mobilehome park. The two-thirds of households in the resident organization at the time of funding the park need not be the same households that were residing in the park when the application for assistance was submitted to the department. A household's membership in the resident organization when the application was submitted to the department shall not be a requirement for that household to receive a loan or assistance under this chapter.

(*l*) "Resident ownership" means, depending on the context, either the ownership, by a resident organization, as defined in this section, of an interest in a mobilehome park which entitles the resident organization to control the operations of the mobilehome park for a term of no less than 15 years, or the ownership of individual interests in a mobilehome park, or both.

SEC. 110. Section 5002 of the Insurance Code is amended to read:

5002. (a) There is hereby created the California Residential Earthquake Recovery Fund, which is a special fund which, notwithstanding Section 13340 of the Government Code, is continuously appropriated for the purposes of this chapter. The fund shall be administered by the commissioner.

(b) The purpose of the fund shall be to provide payments for structural damage caused by earthquakes to California residential real property.

(c) Money in the fund shall be used exclusively for the following purposes:

(1) Payment for structural damages to residential property caused by earthquakes as provided by this chapter.

(2) Payment of expenses of administering this chapter. Expenses of administering this chapter shall be paid only from the fund.

(3) Payment of expenses of insurers for other persons or entities incurred in connection with the adjustment of claims under this chapter.

(4) The purchase of reinsurance where authorized by this

chapter.

(5) The expenses of issuance and the repayment of revenue bonds that may be authorized for the purposes of this chapter.

(6) The reduction of earthquake hazards by retrofitting dwellings pursuant to Section 5002.5.

(d) Money in the fund shall be invested and reinvested as part of the Pooled Money Investment Account. However, the fund and its interest shall not be available for transfers pursuant to Section 16310 of the Government Code.

SEC. 111. Section 5002.5 of the Insurance Code is amended to read:

5002.5. For purposes of paragraph (6) of subdivision (c) of Section 5002, when an initial threshold of one billion dollars surplus in the fund is attained, 2 percent of the moneys above one billion dollars shall be made available for the issuance of low-interest loans to individuals who have residential property insurance in force for the purpose of retrofitting covered structures to withstand or reduce earthquake damage or hazards. A four percent authorization shall become available for this purpose when the fund surplus reaches two billion dollars, and a five percent authorization shall become available when the fund surplus reaches three billion dollars.

SEC. 112. The second version of Section 5004 of the Insurance Code, as added by Chapter 1165 of the Statutes of 1990, is amended and renumbered to read:

5005. (a) The fund shall make payment for structural damages as provided in this chapter to owners of residential property located within the state other than for losses caused by fire, subject to the following limits:

(1) Payment for structural damage is limited to a maximum of fifteen thousand dollars ($15,000) per occurrence.

(2) The payments shall be subject to a deductible equal to one-half of 1 percent of the amount of fire coverage as stated in the policy of residential property insurance, or, if there is no stated amount per unit of residential property, then the fair market value of the residence, excluding land value, but in no case less than one thousand dollars ($1,000), and in no case more than three thousand five hundred dollars ($3,500).

(b) The amount established by subdivision (a) shall be adjusted annually by the commissioner to reflect changes in the construction cost for residential structures.

(c) Except as provided by subdivision (a) of Section 5008, payments from the fund shall apply only for property for which the surcharge was collected. The property shall remain eligible for payments for the period for which the underlying residential property insurance is in effect.

(d) The fund shall not make payments to the extent that any loss or damage is covered by any privately purchased policy of insurance. Insurers may submit earthquake insurance rating plans which include deductibles varying in relation to insured values and

payments provided under this chapter.

SEC. 113. Section 10086 of the Insurance Code is amended to read:

10086. If an offer of earthquake coverage is accepted, the coverage shall be continued at the applicable rates and conditions, provided the policy of residential property insurance is not terminated by the named insured or insurer. If the offer is not accepted, the insurer or any affiliated insurer shall be required on an every other year basis to offer earthquake coverage in connection with any continuation, renewal, or reinstatement of the policy following any lapse thereof, or with respect to any other policy that extends, changes, supersedes, or replaces the policy of residential property insurance. Nothing in this section shall preclude the named insured from terminating the earthquake coverage at any time.

SEC. 114. Section 10119.1 of the Insurance Code, as added by Chapter 949 of the Statutes of 1990, is amended and renumbered to read:

10199.1. (a) No insurer or nonprofit hospital service plan or administrator acting on its behalf shall terminate a group master policy or contract providing hospital, medical, or surgical benefits, increase premiums or charges therefor, reduce or eliminate benefits thereunder, or restrict eligibility for coverage thereunder without providing prior notice of that action. No such action shall become effective unless written notice of the action was delivered by mail to the last known address of the appropriate insurance producer and the appropriate administrator, if any, at least 45 days prior to the effective date of the action and to the last known address of the group policyholder or group contractholder at least 30 days prior to the effective date of the action. If nonemployee certificate holders or employees of more than one employer are covered under the policy or contract, written notice shall also be delivered by mail to the last known address of each nonemployee certificate holder or affected employer or, if the action does not affect all employees and dependents of one or more employers, to the last known address of each affected employee certificate holder, at least 30 days prior to the effective date of the action.

(b) No holder of a master group policy or a master group nonprofit hospital service plan contract or administrator acting on its behalf shall terminate the coverage of, increase premiums or charges for, or reduce or eliminate benefits available to, or restrict eligibility for coverage of a covered person, employer unit, or class of certificate holders covered under the policy or contract for hospital, medical, or surgical benefits without first providing prior notice of the action. No such action shall become effective unless written notice was delivered by mail to the last known address of each affected nonemployee certificate holder or employer, or if the action does not affect all employees and dependents of one or more employers, to the last known address of each affected employee certificate holder, at least 30 days prior to the effective date of the

action.

SEC. 115. Section 12205 of the Insurance Code, as added by Chapter 1032 of the Statutes of 1990, is amended and renumbered to read:

12105. The filing fee for a certificate of authority or amended certificate of authority to transact financial guaranty insurance shall be five thousand dollars ($5,000).

SEC. 116. Section 394 of the Military and Veterans Code is amended to read:

394. (a) No person shall discriminate against any officer, warrant officer, or enlisted member of the military or naval forces of the state or of the United States because of that membership. No member of the military forces shall be prejudiced or injured by any person, employer, or officer or agent of any corporation, company, or firm with respect to that member's employment, position, or status or be denied or disqualified for employment by virtue of membership or service in the military forces of this state or of the United States.

(b) No officer or employee of the state, or of any county, city and county, municipal corporation, or district shall discriminate against any officer, warrant officer, or enlisted member of the military or naval forces of the state or of the United States because of that membership. No member of the military forces shall be prejudiced or injured by any officer or employee of the state, or of any county, city and county, municipal corporation, or district with respect to that member's employment, appointment, position, or status or be denied or disqualified for or discharged from that employment or position by virtue of membership or service in the military forces of this state or of the United States.

(c) No person shall prohibit or refuse entrance to any officer or enlisted member of the Army or Navy of the United States or of the military or naval forces of this state into any public entertainment or place of amusement or into any of the places described in Sections 51 and 52 of the Civil Code because that member wears the uniform of the organization to which he or she belongs.

(d) No employer or officer or agent of any corporation, company, or firm, or other person, shall discharge any person from employment because of the performance of any ordered military duty or training or by reason of being an officer, warrant officer, or enlisted member of the military or naval forces of this state, or hinder or prevent that person from performing any military service or from attending any military encampment or place of drill or instruction he or she may be called upon to perform or attend by proper authority; prejudice or harm him or her in any manner in his or her employment, position, or status by reason of performance of military service or duty or attendance at military encampments or places of drill or instruction; or dissuade, prevent, or stop any person from enlistment or accepting a warrant or commission in the California National Guard or Naval Militia by threat or injury to him or her in respect to his or her employment, position, status, trade, or business

because of enlistment or acceptance of a warrant or commission.

(e) (1) No private employer or officer or agent of any corporation, company, or firm, or other person, shall restrict or terminate any collateral benefit for employees by reason of an employee's temporary incapacitation incident to duty in the National Guard or Naval Militia.

(2) As used in this subdivision, "temporary incapacitation" means any period of incapacitation of 52 weeks or less.

(3) As used in this subdivision, "collateral benefit" includes, but is not limited to, health care which may be continued at the employee's expense, life insurance, disability insurance, and seniority status.

(f) Any person violating this section is guilty of a misdemeanor.

SEC. 117. Section 193.7 of the Penal Code is amended to read:

193.7. Any person convicted of a violation of paragraph (3) of subdivision (c) of Section 192 which occurred within seven years of two or more separate violations of Section 23103, as specified in Section 23103.5, of, or Section 23152 or 23153 of, the Vehicle Code, or any combination thereof, which resulted in convictions, shall be designated as an habitual traffic offender subject to paragraph (3) of subdivision (e) of Section 14601.3 of the Vehicle Code, for a period of three years, subsequent to the conviction. The person shall be advised of this designation pursuant to subdivision (b) of Section 13350 of the Vehicle Code.

SEC. 118. Section 270h of the Penal Code is amended to read:

270h. In any case where there is a conviction under either Section 270 or 270a and there is an order granting probation which includes an order for support, the court may:

(a) Issue an execution on the order for the support payments that accrue during the time the probation order is in effect, in the same manner as on a judgment in a civil action for support payments. This remedy shall apply only when there is no existing civil order of this state or a foreign court order that has been reduced to a judgment of this state for support of the same person or persons included in the probation support order.

(b) Require assignment of wages pursuant to Chapter 5 (commencing with Section 4390) of Title 1.5 of Part 5 of Division 4 of the Civil Code as a condition of probation. This remedy shall apply only when there is no existing civil order for support of the same person or persons included in the probation support order upon which an order of assignment has been entered pursuant to Chapter 5 (commencing with Section 4390) of Title 1.5 of Part 5 of Division 4 of the Civil Code.

These remedies are in addition to any other remedies available to the court.

SEC. 119. Section 12028 of the Penal Code is amended to read:

12028. (a) The unlawful concealed carrying upon the person or within the vehicle of the carrier of any explosive substance, other than fixed ammunition, dirk, or dagger, as provided in Section 12020, the unlawful concealed carrying upon the person or within the

vehicle of the carrier of any of the weapons mentioned in Section 12025, and the unlawful possession or carrying of any item in violation of Section 653k is a nuisance.

(b) A firearm of any nature used in the commission of any misdemeanor as provided in this code or any felony, or an attempt to commit any misdemeanor as provided in this code or any felony, is, upon a conviction of the defendant, or upon a juvenile court finding that an offense which would be a misdemeanor or felony if committed by an adult was committed or attempted by the juvenile with the use of a firearm, a nuisance. A finding that the defendant was guilty of the offense but was insane at the time the offense was committed is a conviction for the purposes of this section.

(c) Any weapon described in subdivision (a), or, upon conviction of the defendant or a juvenile court finding that an offense which would be a misdemeanor or felony if committed by an adult was committed or attempted by the juvenile with the use of a firearm, any weapon described in subdivision (b), shall be surrendered to the sheriff of a county or the chief of police or other head of a municipal police department of any city or city and county or the Commissioner of the Department of the California Highway Patrol. The officers to whom the weapons are surrendered, except upon the certificate of a judge of a court of record, or of the district attorney of the county, that the retention thereof is necessary or proper to the ends of justice, may annually, between the 1st and 10th days of July, in each year, offer the weapons, which the officers in charge of them consider to have value with respect to sporting, recreational, or collection purposes, for sale at public auction to persons licensed under federal law to engage in businesses involving any weapon purchased. If any weapon has been stolen and is thereafter recovered from the thief or his or her transferee, or is used in such a manner as to constitute a nuisance pursuant to subdivision (a) or (b) without the prior knowledge of its lawful owner that it would be so used, it shall not be so offered for sale but shall be restored to the lawful owner, as soon as its use as evidence has been served, upon his or her identification of the weapon and proof of ownership.

(d) If, under this section, a weapon is not of the type that can be sold to the public, generally, or is not sold pursuant to subdivision (c), the weapon shall in the month of July, next succeeding, or sooner, if necessary to conserve local resources including space and utilization of personnel who maintain files and security of those weapons, be destroyed so that it can no longer be used as such weapon except upon the certificate of a judge of a court of record, or of the district attorney of the county, that the retention of it is necessary or proper to the ends of justice.

(e) This section does not apply to any firearm in the possession of the Department of Fish and Game or which was used in the violation of any provision of the Fish and Game Code or any regulation adopted pursuant thereto, or which is forfeited pursuant to Section 5008.6 of the Public Resources Code.

(f) No stolen weapon shall be sold or destroyed pursuant to subdivision (c) or (d) unless reasonable notice is given to its lawful owner, if his or her identity and address can be reasonably ascertained.

SEC. 120. Title 7 (commencing with Section 14000) of Part 4 of the Penal Code, as added by Chapter 1661 of the Statutes of 1967 and as further amended by Chapter 1119 of the Statutes of 1971 and Chapter 750 of the Statutes of 1974, is repealed.

SEC. 121. Section 7103 of the Public Contract Code, as added by Chapter 694 of the Statutes of 1990, is amended and renumbered to read:

7103.5. (a) As used in this section:

(1) "Public works contract" means a contract awarded through competitive bids by the state or any of its political subdivisions or public agencies, on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code, for the erection, construction, alteration, repair, or improvement of any structure, building, road, or other improvement of any kind.

(2) "Awarding body" means the state or the subdivision or agency awarding a public works contract.

(b) In entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to a public works contract, the contractor or subcontractor offers and agrees to assign to the awarding body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders final payment to the contractor, without further acknowledgment by the parties.

(c) Subdivision (b) shall be included in full in the specifications for the public works contract or in the general provisions incorporated therein and shall be included in full in the public works contract or in the general provisions incorporated therein.

SEC. 122. Section 7104 of the Public Contract Code, as added by Chapter 694 of the Statutes of 1990, is amended and renumbered to read:

7105. (a) Construction contracts of public agencies shall not require the contractor to be responsible for the cost of repairing or restoring damage to the work, which damage is determined to have been proximately caused by an act of God, in excess of 5 percent of the contracted amount, provided, that the work damaged is built in accordance with accepted and applicable building standards and the plans and specifications of the awarding authority. However, contracts may include provisions for terminating the contract. The requirements of this section shall not be mandatory as to

construction contracts financed by revenue bonds. This section shall not prohibit a public agency from requiring that a contractor obtain insurance to indemnify the public agency for any damage to the work caused by an act of God if the insurance premium is a separate bid item. If insurance is required, requests for bids issued by public agencies shall set forth the amount of the work to be covered and the contract resulting from the requests for bids shall require that the contractor furnish evidence of satisfactory insurance coverage to the public agency prior to execution of the contract.

(b) For the purposes of this section:

(1) "Public agency" shall include the state, the Regents of the University of California, a city, county, district, public authority, public agency, municipal utility, and any other political subdivision or public corporation of the state.

(2) "Acts of God" shall include only the following occurrences or conditions and effects: earthquakes in excess of a magnitude of 3.5 on the Richter Scale and tidal waves.

(c) Public agencies may make changes in construction contracts for public improvements in the course of construction to bring the completed improvements into compliance with environmental requirements or standards established by state and federal statutes and regulations enacted after the contract has been awarded or entered into. The contractor shall be paid for the changes in accordance with the provisions of the contract governing payment for changes in the work or, if no provisions are set forth in the contract, payment shall be as agreed to by the parties.

(d) (1) Where authority to contract is vested in any public agency, excluding the state, the authority shall include the power, by mutual consent of the contracting parties, to terminate, amend, or modify any contract within the scope of such authority.

(2) Paragraph (1) shall not apply to contracts entered into pursuant to any statute expressly requiring that contracts be let or awarded on the basis of competitive bids. Contracts of public agencies, excluding the state, required to be let or awarded on the basis of competitive bids pursuant to any statute may be terminated, amended, or modified only if the termination, amendment, or modification is so provided in the contract or is authorized under provision of law other than this subdivision. The compensation payable, if any, for amendments and modifications shall be determined as provided in the contract. The compensation payable, if any, in the event the contract is so terminated shall be determined as provided in the contract or applicable statutory provision providing for the termination.

(3) Contracts of public agencies may include provisions for termination for environmental considerations at the discretion of the public agencies.

SEC. 123. Section 10365.5 of the Public Contract Code is amended to read:

10365.5. (a) No person, firm, or subsidiary thereof who has been

awarded a consulting services contract may submit a bid for, nor be awarded a contract for, the provision of services, procurement of goods or supplies, or any other related action which is required, suggested, or otherwise deemed appropriate in the end product of the consulting services contract.

(b) Subdivision (a) does not apply to any person, firm, or subsidiary thereof who is awarded a subcontract of a consulting services contract which amounts to no more than 10 percent of the total monetary value of the consulting services contract.

(c) Subdivisions (a) and (b) do not apply to consulting services contracts subject to Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code.

SEC. 124. The heading of Article 60.5 (commencing with Section 20920) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code, as added by Chapter 1163 of the Statutes of 1989, is amended and renumbered to read:

Article 60.7. Water District Contract Bids

SEC. 125. Section 20920 of the Public Contract Code, as amended by Chapter 808 of the Statutes of 1990, is amended and renumbered to read:

20929. All bids for construction work requested by an agency or district covered by this chapter shall be presented under sealed cover and shall be accompanied by one of the following forms of bidder's security:

(a) Cash.

(b) A cashier's check made payable to the agency or district.

(c) A certified check made payable to the agency or district.

(d) A bidder's bond executed by an admitted surety insurer, made payable to the agency or district.

Upon an award to the lowest bidder, the security of an unsuccessful bidder shall be returned in a reasonable period of time, but in no event shall that security be held by the agency or district beyond 60 days from the time the award is made.

SEC. 126. Section 2599.6 of the Public Resources Code is amended and renumbered to read:

2699.6. This chapter shall become operative on April 1, 1991.

SEC. 127. Section 3787 of the Public Resources Code, as added by Chapter 1657 of the Statutes of 1990, is amended and renumbered to read:

3487. The board shall evaluate each grant application for its potential to satisfy the requirements of this chapter and shall award the grant based on the evaluation. The board shall notify the applicant of the approval or denial of the grant application on or before January 1, 1992.

SEC. 128. Section 8754 of the Public Resources Code is amended to read:

8754. (a) The administrator may prohibit an owner or operator

of a marine terminal from delivering or accepting oil to or from any tanker or barge if the administrator finds, after noticed hearing, that the owner or operator has violated this chapter and that previous convictions, judgments, or settlements for those violations occurred during the prior three years and meet all of the following criteria:

(1) The violations have not been corrected or reasonable progress toward correction has not been achieved.

(2) The violations demonstrate a recurring pattern of noncompliance.

(3) The violations pose, or have posed, a significant risk to public health and safety or to the environment.

(b) The administrator shall not order the termination of operations pursuant to subdivision (a) if the decision to deny is based, in whole or in part, on violations that were resolved through a settlement, unless the administrator presents substantial evidence proving that the violations did occur and the applicant is then given the opportunity to rebut the evidence of the administrator.

(c) The administrator may allow terminals to resume transfers to and from the tankers or barges described if, after noticed hearing, the administrator is satisfied that the owner or operator has corrected all violations and will comply with all of the provisions of this division.

SEC. 129. Section 30511 of the Public Resources Code is amended to read:

30511. Local coastal programs shall be submitted in accordance with the schedule established pursuant to Section 30517.5. At the option of the local government, this program may be submitted and processed in any of the following ways:

(a) At one time, in which event the provisions of Section 30512 with respect to time limits, resubmission, approval, and certification shall apply. However, the zoning ordinances, zoning district maps, and, if required, other implementing actions included in the local coastal program shall be approved and certified pursuant to the standards of subdivisions (a) and (f) of Section 30513.

(b) In two phases, in which event, the land use plans shall be processed first pursuant to Section 30512, and the zoning ordinances, zoning district maps, and, if required, other implementing actions, shall be processed thereafter pursuant to Section 30513.

(c) In separate geographic units consisting of less than the local government's jurisdiction lying within the coastal zone, each submitted pursuant to subdivision (a) or (b), if the commission finds that the area or areas proposed for separate review can be analyzed for the potential cumulative impacts of development on coastal resources and access independently of the remainder of the affected jurisdiction.

SEC. 130. Section 41825 of the Public Resources Code, as added by Chapter 1634 of the Statutes of 1990, is amended and renumbered to read:

41826. On or before July 1, 1991, the board shall complete a study

on recycling and source reduction in rural areas and report the results of the study to the Legislature. The study shall include, but is not limited to, all of the following:

(a) A review and assessment of existing recycling and composting programs, approaches, and infrastructure in rural areas.

(b) An analysis of the economic impact, fiscal constraints, geographic and demographic factors, and other impediments to recycling and source reduction activities in rural areas.

(c) An analysis of market development options, including, but not limited to, regional or multijurisdictional strategies for the collection, transporting, processing, and procurement of recyclable materials.

(d) An identification of methods and strategies which rural localities may use to achieve the recycling goals specified in Section 41780.

SEC. 131. Section 42100 of the Public Resources Code is amended to read:

42100. The Recycled Market Development Commission is hereby created in the board. The commission shall make the recommendations for expansion of markets for recyclable materials annually to the Governor and the Legislature and shall include the progress of markets development for recyclable materials.

SEC. 132. Section 44817 of the Public Resources Code, as added by Chapter 35 of the Statutes of 1990, is amended and renumbered to read:

42817. Division 13 (commencing with Section 21000) does not apply to the issuance of a permit for the operation of an existing waste tire facility pursuant to this chapter, except as to any substantial change in the design or operation of the waste tire facility made between the time this chapter becomes effective and the permit is initially issued by the board and as to any subsequent substantial changes made in the design or operation of the waste tire facility.

SEC. 133. Section 45002 of the Public Resources Code is amended to read:

45002. If the circumstances set forth in Section 45000 do not pose an imminent threat to life or health, but the chief executive officer of the board determines that it is necessary for the public health to perform cleanup and abatement work or remedial work, the chief executive officer shall request the authorization to perform the work from the board.

SEC. 134. Section 782 of the Public Utilities Code, as added by Chapter 1270 of the Statutes of 1978, is repealed.

SEC. 135. Section 5411.5 of the Public Utilities Code is amended to read:

5411.5. Whenever a peace officer arrests a person for a violation of Section 5411 involving the operation of a charter-party carrier of passengers without a valid certificate or permit at a public airport, within 100 feet of a public airport, or within two miles of the international border between the United States and Mexico, the

peace officer may impound and retain possession of the vehicle used in violation of Section 5411.

If the vehicle is seized from a person who is not the owner of the vehicle, the impounding authority shall immediately give notice to the owner by first-class mail.

The vehicle shall immediately be returned to the owner without cost to the owner if the infraction or violation is not prosecuted or is dismissed, the owner is found not guilty of the offense, or it is determined that the vehicle was used in violation of Section 5411 without the knowledge and consent of the owner. Otherwise, the vehicle shall be returned to the owner upon payment of any fine ordered by the court. After the expiration of six weeks from the final disposition of the criminal case, the impounding authority may deal with the vehicle as lost or abandoned property under Section 1411 of the Penal Code.

At any time, a person may make a motion in municipal court for the immediate return of the vehicle on the ground that there was no probable cause to seize it or that there is some other good cause, as determined by the court, for the return of the vehicle.

No peace officer, however, shall impound any vehicle owned or operated by a nonprofit organization exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code which serves youth or senior citizens and provides transportation incidental to its programs or services.

SEC. 136. The heading of Article 10 (commencing with Section 130450) of Chapter 4 of Division 12 of the Public Utilities Code is amended to read:

Article 10. Regional Transit Services Program

SEC. 137. Section 130450 of the Public Utilities Code is amended to read:

130450. For purposes of this article:

(a) "Commissions" means the county transportation commissions of Los Angeles, Orange, Riverside, and San Bernardino Counties.

(b) "Region" means the multicounty region within the collective jurisdiction of the four commissions.

(c) "Regional transit service" means each existing and planned public transit service, including those which are privately owned and which either receive public funds or are operated under an agreement pursuant to Section 143 of the Streets and Highways Code, whether provided by rail or bus, which operates or is planned for operation between two or more counties within the region.

SEC. 138. Section 130452 of the Public Utilities Code is amended to read:

130452. The commissions shall hold a joint public hearing in each county in their jurisdiction on the draft program no earlier than 30 days after the draft has been completed. Following the public hearings, each commission shall adopt the regional transit services

program.

SEC. 139. Section 97 of the Revenue and Taxation Code is amended to read:

97. Except as otherwise provided in Sections 97.3, 97.32, 97.35, 97.37, and 97.38 for the 1980–81 fiscal year and each fiscal year thereafter, property tax revenues shall be apportioned to each jurisdiction pursuant to this section and Section 97.5 by the county auditor, subject to allocation and payment of funds as provided for in subdivision (b) of Section 33670 of the Health and Safety Code, to each jurisdiction in the following manner:

(a) Except as provided in subdivision (b), for each tax rate area, each jurisdiction shall be allocated an amount of property tax revenue equal to the amount of property tax revenue allocated pursuant to this chapter to each jurisdiction in the prior fiscal year, modified by any adjustments required by Section 99 or 99.4.

(b) For each tax rate area, each special district shall be allocated an amount of property tax revenue equal to the amount of property tax revenue which would have been allocated pursuant to this chapter to such district in the prior fiscal year if no adjustment had been made pursuant to Section 98.6. This amount shall then be adjusted for the current year pursuant to Section 98.6.

(c) The difference between the total amount of property tax revenue and the amounts allocated pursuant to subdivision (a) shall be allocated pursuant to Section 98, and shall be known as the "annual tax increment."

(d) For purposes of this section, the amount of property tax revenue referred to in subdivision (a) shall not include amounts generated by the increased assessments under Chapter 3.5 (commencing with Section 75).

(e) (1) Notwithstanding any other provision of law, for the 1990–91 fiscal year, for the purposes of the computations required by this section, the amount of property tax presumed to have been received by the county in the prior year shall be increased by the amount of 1989–90 property tax administrative costs proportionately attributable to incorporated cities as determined pursuant to paragraph (2).

(2) The auditor shall determine the 1989–90 fiscal year property tax administrative costs proportionately attributable to incorporated cities by adding the 1989–90 fiscal year property tax-related costs of the assessor, tax collector, and auditor, including applicable administrative overhead costs as permitted by federal Office of Management and Budget Circular A-87 standards, and multiplying the sum of those amounts by the ratio of property tax revenue received by all incorporated cities divided by the total property tax revenue for all local jurisdictions in the county for that fiscal year.

(3) The county shall use the additional revenue received pursuant to this subdivision only to fund the actual costs of assessing, collecting, and allocating property taxes. At least once each fiscal year, the county auditor shall report the amount of these actual costs

and allowable overhead costs to the legislative body and any other jurisdiction or person that request the information. To the extent that actual costs for assessing, collecting, and allocating property taxes plus allowable overhead costs are less than the amount determined pursuant to paragraph (2), the county auditor shall apportion the difference to each incorporated city as otherwise required by this section.

(4) The county may retain up to one-half of any increased property tax allocation to which a jurisdiction may be otherwise entitled, until the county receives its additional revenues pursuant to this section.

(5) It is the intent of the Legislature in enacting this subdivision to recognize that since the adoption of Article XIII A of the California Constitution by the voters, county governments have borne an unfair and disproportionate part of the financial burden of assessing, collecting, and allocating property tax revenues for cities. It is further the intent of the Legislature that the adjustments provided for by this subdivision shall constitute charges by a county for the assessment, collection, and allocation of property taxes and shall not exceed the actual costs reasonably borne by a county for those activities.

(f) The auditor may determine the 1989–90 fiscal year property tax administrative costs proportionately attributable to local jurisdictions other than the county or city and county, and cities, by adding the property tax-related costs of the assessor, tax collector, and auditor, including applicable administrative overhead costs as permitted by federal Office of Management and Budget Circular A-87 standards, and multiplying the sum of those amounts by the ratio of property tax revenue received by jurisdictions other than the county, city and county, and cities divided by the total property tax received by all local jurisdictions in the county for that fiscal year. Notwithstanding any other provision of law, this amount may be calculated for each fiscal year commencing with the 1989–90 fiscal year, and the auditor may, commencing in fiscal year 1990–91, submit an invoice to these jurisdictions for services rendered in the prior fiscal year.

SEC. 140. Section 3964 of the Revenue and Taxation Code, as added by Chapter 897 of the Statutes of 1943, is repealed.

SEC. 141. Section 6051.1 of the Revenue and Taxation Code, as added by Chapter 13 of the Statutes of the 1989–90 First Extraordinary Session, is repealed.

SEC. 142. Section 6201.1 of the Revenue and Taxation Code, as added by Chapter 13 of the Statutes of the 1989–90 First Extraordinary Session, is repealed.

SEC. 143. Section 6357.5 of the Revenue and Taxation Code is amended to read:

6357.5. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption of, fuel and petroleum products sold to an air common

carrier for immediate consumption or shipment in the conduct of its business as an air common carrier, on a flight whose first destination is a foreign destination.

(b) To qualify for the exemption, the air common carrier shall furnish to the seller an exemption certificate in writing stating the quantity of fuel and petroleum products claimed as exempt. That certificate shall bear the purchaser's valid seller's permit number or valid fuel exemption registration number and shall be substantially in the form prescribed by the board. Acceptance in good faith of that certificate shall relieve the seller from liability for the sales tax.

(c) "Foreign destination," as used in this section, means the first point reached outside of the United States by an air common carrier in the conduct of its business as a common carrier at which cargo or passengers are loaded or discharged.

(d) "Immediate consumption or shipment," as used in this section, means that the delivery of the fuel and petroleum products by the seller is directly into an aircraft for consumption or transportation outside the United States and not for storage by the purchaser or any third party.

(e) Any air common carrier claiming exemption under this section who is not required to hold a valid seller's permit, shall be required to register with the board and obtain a fuel exemption registration number, and shall be required to file returns as the board may prescribe, either if the board notifies the carrier that returns must be filed or if the carrier is liable for taxes based upon consumption or transportation of fuel or petroleum products erroneously claimed as exempt under this section. A common carrier required to hold a fuel exemption registration number shall be subject to all applicable provisions of this part, Part 1.5 (commencing with Section 7200), and Part 1.6 (commencing with Section 7251).

(f) An air common carrier claiming an exemption under this section upon request, shall make available to the board records, including, but not limited to, a copy of a log abstract, an air waybill, or a cargo manifest, documenting its consumption or transportation of the fuel or petroleum products to a foreign destination and the amount claimed as exempt. If the carrier fails to provide these records upon request, the board may revoke the carrier's fuel exemption registration number.

(g) The board may require any air common carrier claiming an exemption under this section and required to obtain a fuel exemption registration number, to place with it such security as the board may determine pursuant to Section 6701.

(h) Pursuant to this section, any use of the fuel and petroleum products by the purchasing carrier, other than that incident to the delivery of the fuel and petroleum products to the carrier and the consumption or transportation of the fuel and petroleum products by the carrier to the foreign destination for use in the conduct of its business as a common carrier, or a failure of the carrier to document its consumption or transportation of the fuel and petroleum products

to the foreign destination, shall subject the carrier to liability for payment of sales tax as if it were a retailer making a retail sale of the property at the time of that use or failure, and the sales price of the property to it shall be deemed to be the gross receipts from the retail sale.

(i) This section shall become operative on January 1, 1989. This section shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1994, deletes or extends that date. However, in the event that the federal exemption provided in Section 1309 of Title 19 of the United States Code, relating to supplies for certain vessels and aircraft, is repealed prior to January 1, 1994, this section is instead repealed as of that earlier date.

SEC. 144. Section 6376 of the Revenue and Taxation Code, as added by Chapter 13 of the Statutes of the 1989–90 First Extraordinary Session, is repealed.

SEC. 145. Section 7285 of the Revenue and Taxation Code, as added by Chapter 466 of the Statutes of 1990, is amended and renumbered to read:

7284.2. The board of supervisors of any county may levy a utility user tax on the consumption of electricity, gas, water, sewer, telephone, telegraph, and cable television services in the unincorporated area of the county.

SEC. 146. Section 7286 of the Revenue and Taxation Code, as added by Chapter 466 of the Statutes of 1990, is amended and renumbered to read:

7284.4. Any tax levied pursuant to this chapter shall be subject to any applicable voter approval requirement imposed by any other provision of law. Revenues collected pursuant to any tax imposed pursuant to this chapter may be reserved for local purposes as determined by the board of supervisors of the county imposing the tax.

SEC. 147. Section 11005.3 of the Revenue and Taxation Code, as amended by Section 2 of Chapter 101 of the Statutes of 1990, is amended to read:

11005.3. (a) In the case of a city which incorporated on or after January 1, 1987, the Controller shall determine that the population of the city for its first eight full fiscal years, and any portion of the first year in which the incorporation is effective if less than a full fiscal year, is the greater of either:

(1) The number of registered voters in the city multiplied by three. The number of registered voters shall be calculated as of the effective date of the incorporation of the city.

(2) The population determined pursuant to subdivision (c) of Section 11005.

(b) In the case of a city which incorporated on or after January 1, 1987, and for which the application for incorporation was filed with the executive officer of the local agency formation commission pursuant to subdivision (a) of Section 56828 of the Government Code

on or after January 1, 1991, the Controller shall determine that the population of the city for its first five full fiscal years, and any portion of the first year in which the incorporation is effective if less than a full fiscal year, is the greater of either:

(1) The number of registered voters in the city multiplied by three. The number of registered voters shall be calculated as of the effective date of the incorporation of the city.

(2) The population determined pursuant to subdivision (c) of Section 11005.

(c) In the case of unincorporated territory being annexed to a city, during the eight-year or five-year period following incorporation, as the case may be, subsequent to the last federal census, or a subsequent census validated by the population research unit of the Department of Finance, the unit shall determine the population of the annexed territory by the use of any federal decennial or special census or any estimate prepared pursuant to Section 2107.2 of the Streets and Highways Code.

(d) After the eight-year or five-year period following incorporation, as the case may be, the Controller shall determine the population of the city pursuant to subdivision (c) of Section 11005.

(e) This section shall become operative July 1, 1991.

SEC. 148. Section 12636 of the Revenue and Taxation Code, as added by Chapter 987 of the Statutes of 1990, is amended and renumbered to read:

12636.5. Every payment on a delinquent tax shall be applied as follows:

(a) First, to any interest due on the tax.

(b) Second, to any penalty imposed by this part.

(c) The balance, if any, to the tax itself.

SEC. 149. Section 12637 of the Revenue and Taxation Code, as added by Chapter 13 of the Statutes of the 1989–90 First Extraordinary Session, is repealed.

SEC. 150. Section 24570 of the Revenue and Taxation Code is amended to read:

24570. This chapter shall not apply to any proceeding which is begun after September 30, 1979.

SEC. 151. Section 25940 of the Revenue and Taxation Code, as added by Chapter 452 of the Statutes of 1990, is amended and renumbered to read:

25939. (a) Section 6038A of the Internal Revenue Code, relating to information with respect to certain foreign-owned corporations, shall apply.

(b) A penalty shall be imposed under this part for failure to furnish information or maintain records and that penalty shall be determined in accordance with Section 6038A of the Internal Revenue Code.

(c) For purposes of this part, the information required to be filed with the Franchise Tax Board shall be a copy of the information filed with the Internal Revenue Service.

SEC. 152. Section 43152.9 of the Revenue and Taxation Code, as added by Chapter 1267 of the Statutes of 1990, is amended and renumbered to read:

43152.11. (a) The surcharge imposed pursuant to Section 25205.9 of the Health and Safety Code, which is collected and administered under Section 43055, is due and payable to the board on the last day of the month following the end of the calendar year.

(b) The surcharge shall be incorporated into the return form prescribed by the board, which every operator subject to the fee imposed pursuant to Section 25205.5 of the Health and Safety Code is required to file and pay annually, in accordance with Section 43152.7. The surcharge shall be in addition to the fee imposed by Section 25205.5 of the Health and Safety Code.

(c) The surcharge imposed by Section 25205.9 of the Health and Safety Code shall be offset by any fees paid by the generator during the preceding calendar year for a local hazardous waste management program conducted by a local agency pursuant to a memorandum of understanding with the department. The offset provided for under this subdivision shall be allowed to the same extent as the offset provided in subdivision (c) of Section 43152.7.

SEC. 153. Section 43158 of the Revenue and Taxation Code, as added by Chapter 13 of the Statutes of the 1989–90 First Extraordinary Session, is repealed.

SEC. 154. Section 45156 of the Revenue and Taxation Code, as added by Chapter 13 of the Statutes of the 1989–90 First Extraordinary Session, is repealed.

SEC. 155. Section 162.5 of the Streets and Highways Code, as added by Chapter 17 of the Statutes of the 1989–90 First Extraordinary Session, is repealed.

SEC. 156. Article 4.8 (commencing with Section 179) of Chapter 1 of Division 1 of the Streets and Highways Code, as added by Chapter 17 of the Statutes of the 1989–90 First Extraordinary Session, is repealed.

SEC. 157. Section 305.5 of the Unemployment Insurance Code, as added by Chapter 1206 of the Statutes of 1973, is repealed.

SEC. 158. Section 15031 of the Unemployment Insurance Code, as added by Chapter 1667 of the Statutes of 1990, is amended and renumbered to read:

10531. There is in state government a California Occupational Information Coordinating Committee composed of the Director of Employment Development, the Director of Commerce, the Superintendent of Public Instruction, the Chancellor of the California Community Colleges, the Director of Rehabilitation, the chair of the State Job Training Coordinating Council, the Executive Director of the Employment Training Panel, the Director of Social Services, and the Executive Secretary of the Council for Private Postsecondary and Vocational Education, or their designees. This committee is established for the purposes of Section 422 of the federal Carl D. Perkins Vocational Education Act and Section 125 of

the Job Training Partnership Act, for the purposes of this article, and for other purposes authorized by the Legislature.

SEC. 159. Section 11713.1 of the Vehicle Code is amended to read:

11713.1. It is unlawful and a violation of this code for the holder of any dealer's license issued under this article to do any of the following:

(a) To advertise any specific vehicle for sale without identifying the vehicle by either its vehicle identification number or license number.

(b) To advertise the total price of a vehicle without including all costs to the purchaser at time of sale, except sales tax, vehicle registration fees, certificate of compliance or noncompliance fees not exceeding twenty-five dollars ($25) pursuant to any statute, finance charges, and any dealer documentary preparation charge. The dealer documentary preparation charge shall not exceed thirty-five dollars ($35).

(c) To exclude from the newspaper display advertisement of a vehicle for sale that there will be added to the advertised total price at the time of sale, charges for sales tax, vehicle registration fees, the fee charged by the state for the issuance of any certificate of compliance or noncompliance pursuant to any statute, finance charges, and any dealer documentary preparation charge.

For purposes of this subdivision, "newspaper display advertisement" means any advertisement in a newspaper which is two or more newspaper columns in width or one newspaper column in width and more than seven inches in length.

(d) To represent the dealer documentary preparation charge or certificate of compliance or noncompliance fee, as a governmental fee.

(e) To fail to sell a vehicle to any person at the advertised total price, exclusive of sales tax, vehicle registration fees, the fee charged by the state for the issuance of any certificate of compliance or noncompliance pursuant to any statute, finance charges, mobilehome escrow fees, the amount of any city, county, or city and county imposed fee or tax for a mobilehome, and any dealer documentary preparation charge, which charges shall not exceed thirty-five dollars ($35) for the documentary preparation charge and twenty-five dollars ($25) for the certificate of compliance or noncompliance pursuant to any statute, while the vehicle remains unsold, unless the advertisement states the advertised total price is good only for a specified time and the time has elapsed.

(f) To advertise for sale as new any new vehicle of a line-make for which the dealer does not hold a franchise.

This subdivision does not apply to any transaction involving a mobilehome as defined in Section 396, a recreational vehicle as defined in Section 18010.5 of the Health and Safety Code, a commercial coach as defined in Section 18012 of the Health and Safety Code, an off-highway motor vehicle subject to identification as defined in Section 38012, or a commercial vehicle as defined in

Section 260.

(g) To sell a park trailer, as defined in subdivision (f) of Section 799.24 of the Civil Code, without disclosing in writing to the purchaser that a park trailer is required to be moved by a transporter or a licensed manufacturer or dealer under a permit issued by the Department of Transportation or a local authority with respect to highways under their respective jurisdictions.

(h) To advertise free merchandise, gifts, or services provided by a dealer contingent on the purchase of a vehicle. The term "free" includes merchandise or services offered for sale at a price less than the seller's cost of the merchandise or services.

(i) To advertise vehicles and related goods or services with intent not to supply reasonably expectable demand, unless the advertisement discloses a limitation of quantity.

(j) To use the term "rebate" or similar words such as "cash back" in advertising the sale of a vehicle, unless the rebate is expressed in a specific dollar amount and is in fact a rebate offered by the vehicle manufacturer or distributor directly to the retail purchaser of the vehicle or to the assignee of the retail purchaser.

(k) To require a person to pay a higher price for a vehicle and related goods or services for receiving advertised credit terms than the cash price the same person would have to pay to purchase the same vehicle and related goods or services. For the purpose of this subdivision, "cash price" has the meaning as defined in subdivision (e) of Section 2981 of the Civil Code.

(*l*) To advertise a guaranteed trade-in allowance unless the guarantee is provided by the manufacturer or distributor.

(m) To misrepresent the authority of a salesperson, representative, or agent to negotiate the final terms of a transaction.

(n) To advertise a vehicle at a specified amount above, below, or at the manufacturer's or distributor's invoice price to the dealer, unless the advertisement clearly and conspicuously states that the invoice amount may exceed the actual dealer cost because of allowances provided to the dealer by the manufacturer or distributor.

(o) To violate any law prohibiting bait and switch advertising, including, but not limited to, the guides against bait advertising set forth in Part 238 (commencing with Section 238) of Title 16 of the Code of Federal Regulations, as those regulations read on January 1, 1988.

(p) To make any untrue or misleading statement indicating that a vehicle is equipped with all the factory installed optional equipment the manufacturer offers, including, but not limited to, a false statement that a vehicle is "fully factory equipped."

(q) To affix on any new vehicle a supplemental price sticker containing a price that represents the dealer's asking price which exceeds the manufacturer's suggested retail price unless all of the following occur:

(1) The supplemental sticker clearly and conspicuously discloses

in the largest print appearing on the sticker, other than the print size used for the dealer's name, that the supplemental sticker price is the dealer's asking price, or words of similar import, and that it is not the manufacturer's suggested retail price.

(2) The supplemental sticker clearly and conspicuously discloses the manufacturer's suggested retail price.

(3) The supplemental sticker lists each item which is not included in the manufacturer's suggested retail price, and discloses the additional price of each item. If the supplemental sticker price is greater than the sum of the manufacturer's suggested retail price and the price of the items added by the dealer, then the supplemental sticker price shall set forth that difference and describe it as "added mark-up."

(r) To advertise any underselling claim, such as "we have the lowest prices" or "we will beat any dealer's price," unless the dealer has conducted a recent survey showing that the dealer sells its vehicles at lower prices than any other licensee in its trade area and maintains records to adequately substantiate the claim. The substantiating records shall be made available to the department upon request.

(s) To advertise any incentive offered by the manufacturer or distributor if the dealer is required to contribute to the cost of the incentive as a condition of participating in the incentive program, unless the dealer discloses in a clear and conspicuous manner that dealer participation may affect consumer cost.

For purposes of this subdivision, "incentive" means anything of value offered to induce people to purchase a vehicle, including, but not limited to, discounts, savings claims, rebates, below-market finance rates, and free merchandise or services.

(t) To display or offer for sale any used vehicle unless there is affixed to the vehicle the Federal Trade Commission's Buyer's Guide as required by Part 455 (commencing with Section 455.1) of Title 16 of the Code of Federal Regulations.

SEC. 160. Section 23175 of the Vehicle Code is amended to read:

23175. (a) If any person is convicted of a violation of Section 23152 and the offense occurred within seven years of three or more separate violations of Section 23103, as specified in Section 23103.5, or Section 23152 or 23153, or any combination thereof, which resulted in convictions, that person shall be punished by imprisonment in the state prison, or in the county jail for not less than 180 days nor more than one year, and by a fine of not less than three hundred ninety dollars ($390) nor more than one thousand dollars ($1,000). The person's privilege to operate a motor vehicle shall be revoked by the Department of Motor Vehicles pursuant to paragraph (7) of subdivision (a) of Section 13352.

(b) Any person convicted of a violation of Section 23152 punishable under this section shall be designated as an habitual traffic offender for a period of three years, subsequent to the conviction. The person shall be advised of this designation pursuant

to subdivision (b) of Section 13350.

SEC. 161. Section 23190 of the Vehicle Code is amended to read:

23190. (a) If any person is convicted of a violation of Section 23153 and the offense occurred within seven years of two or more separate violations of Section 23103, as specified in Section 23103.5, or Section 23152 or 23153, or any combination of these violations, which resulted in convictions, that person shall be punished by imprisonment in the state prison for a term of two, three, or four years and by a fine of not less than one thousand fifteen dollars ($1,015) nor more than five thousand dollars ($5,000). The person's privilege to operate a motor vehicle shall be revoked by the Department of Motor Vehicles pursuant to paragraph (6) of subdivision (a) of Section 13352.

(b) Any person convicted of Section 23153 punishable under this section shall be designated as an habitual traffic offender for a period of three years, subsequent to the conviction. The person shall be advised of this designation pursuant to subdivision (b) of Section 13350.

SEC. 162. Section 13391.5 of the Water Code is amended to read:

13391.5. The definitions in this section govern the construction of this chapter.

(a) "Enclosed bays" means indentations along the coast which enclose an area of oceanic water within distinct headlands or harbor works. "Enclosed bays" include all bays where the narrowest distance between the headlands or outermost harbor works is less than 75 percent of the greatest dimension of the enclosed portion of the bay. "Enclosed bays" include, but are not limited to, Humboldt Bay, Bodega Harbor, Tomales Bay, Drake's Estero, San Francisco Bay, Morro Bay, Los Angeles-Long Beach Harbor, Upper and Lower Newport Bay, Mission Bay, and San Diego Bay. For the purposes of identifying, characterizing, and ranking toxic hot spots pursuant to this chapter, Monterey Bay and Santa Monica Bay shall also be considered to be enclosed bays.

(b) "Estuaries" means waters, including coastal lagoons, located at the mouths of streams which serve as mixing zones for fresh and ocean waters. Coastal lagoons and mouths of streams which are temporarily separated from the ocean by sandbars shall be considered as estuaries. Estuarine waters shall be considered to extend from a bay or the open ocean to a point upstream where there is no significant mixing of fresh water and sea water. Estuarine waters include, but are not limited to, the Sacramento-San Joaquin Delta, as defined in Section 12220, Suisun Bay, Carquinez Strait downstream to the Carquinez Bridge, and appropriate areas of the Smith, Mad, Eel, Noyo, Russian, Klamath, San Diego, and Otay Rivers.

(c) "Health risk assessment" means an analysis which evaluates and quantifies the potential human exposure to a pollutant that bioaccumulates or may bioaccumulate in edible fish, shellfish, or wildlife. "Health risk assessment" includes an analysis of both

individual and population wide health risks associated with anticipated levels of human exposure, including potential synergistic effects of toxic pollutants and impacts on sensitive populations.

(d) "Sediment quality objective" means that level of a constituent in sediment which is established with an adequate margin of safety, for the reasonable protection of the beneficial uses of water or the prevention of nuisances.

(e) "Toxic hot spots" means locations in enclosed bays, estuaries, or any adjacent waters in the "contiguous zone" or the "ocean," as defined in Section 502 of the Clean Water Act (33 U.S.C. Sec. 1362), the pollution or contamination of which affects the interests of the state, and where hazardous substances have accumulated in the water or sediment to levels which (1) may pose a substantial present or potential hazard to aquatic life, wildlife, fisheries, or human health, or (2) may adversely affect the beneficial uses of the bay, estuary, or ocean waters as defined in water quality control plans, or (3) exceeds adopted water quality or sediment quality objectives.

(f) "Hazardous substances" has the same meaning as defined in subdivision (f) of Section 25281 of the Health and Safety Code.

SEC. 163. Section 11461 of the Welfare and Institutions Code is amended to read:

11461. (a) For children placed in a licensed or approved family home with a capacity of six or less, or in an approved home of a relative or nonrelated legal guardian, the per child per month rates in the following schedule shall be in effect for the period July 1, 1989, through December 31, 1989:

Age	Basic rate
0–4	$ 294
5–8	319
9–11	340
12–14	378
15–20	412

(b) (1) Any county that, as of October 1, 1989, has in effect a basic rate that is at the levels set forth in the schedule in subdivision (a), shall continue to receive state participation, as specified in subdivision (c) of Section 15200, at these levels.

(2) Any county that, as of October 1, 1989, has in effect a basic rate that exceeds a level set forth in the schedule in subdivision (a), shall continue to receive the same level of state participation as it received on October 1, 1989.

(c) The amounts in the schedule of basic rates in subdivision (a) shall be adjusted as follows:

(1) Effective January 1, 1990, the amounts in the schedule of basic rates in subdivision (a) shall be increased by 12 percent.

(2) Effective May 1, 1990, any county which did not increase the basic rate by 12 percent on January 1, 1990, shall do all of the following:

(A) Increase the basic rate in effect December 31, 1989, for which state participation is received by 12 percent.

(B) Increase the basic rate, as adjusted pursuant to subparagraph (A) by an additional 5 percent.

(3) (A) Except as provided in subparagraph (B), effective July 1, 1990, for the 1990–91 fiscal year, the amounts in the schedule of basic rates in subdivision (a) shall be increased by an additional 5 percent.

(B) The rate increase required by subparagraph (A) shall not be applied to rates increased May 1, 1990, pursuant to paragraph (2).

(d) (1) Beginning with the 1991–92 fiscal year, the schedule of basic rates in subdivision (a) shall be adjusted by the percentage changes in the California Necessities Index, computed pursuant to the methodology described in Section 11453, subject to the availability of funds.

(2) Any county that, as of the 1991–92 fiscal year, receives state participation for a basic rate that exceeds the amount set forth in the schedule of basic rates in subdivision (a) shall receive an increase each year in state participation for that basic rate of one-half of the percentage adjustments specified in paragraph (1) until the difference between the county's adjusted state participation level for its basic rate and the adjusted schedule of basic rates is eliminated.

(3) If a county has, after receiving the adjustments specified in paragraph (2), a state participation level for a basic rate that is below the amount set forth in the adjusted schedule of basic rates for that fiscal year, the state participation level for that rate shall be further increased to the amount specified in the adjusted schedule of basic rates.

(e) (1) As used in this section, "specialized care increment" means an approved amount paid with state participation on behalf of an AFDC-FC child requiring specialized care to a home listed in subdivision (a) in addition to the basic rate. On the effective date of this section, the department shall continue and maintain the current ratesetting system for specialized care.

(2) Any county that, as of the effective date of this section, has in effect specialized care increments that have been approved by the department, shall continue to receive state participation for those payments.

(3) Any county that, as of the effective date of this section, has in effect specialized care increments that exceed the amounts that have been approved by the department, shall continue to receive the same level of state participation as it received on the effective date of this section.

(4) (A) Except as provided in subparagraph (B), beginning January 1, 1990, specialized care increments shall be adjusted in accordance with the methodology for the schedule of basic rates described in subdivision (c). No county shall receive state participation for any increases in a specialized care increment which exceeds the adjustments made in accordance with this methodology.

(B) It is the intent of the Legislature that for fiscal year 1991–92,

an amount equal to 5 percent of the State Treasury appropriation for family homes be added to the total augmentation for the AFDC-FC program in order to provide incentives and assistance to counties in the area of specialized care. This appropriation shall be used, but not limited to, encouraging counties to implement or expand specialized care payment systems, to recruit and train foster parents for the placement of children with specialized care needs, and to develop county systems to encourage the placement of children in family homes. It is also the intent of the Legislature that in the use of these funds, federal financial participation shall be claimed whenever possible.

(5) The department shall report, in consultation with counties, the State Foster Parents Association, and representatives of other foster care providers, to the Legislature by December 31, 1990, on the department's specialized care ratesetting system regarding its effectiveness in meeting the special needs of children in foster care. At a minimum, the department's report shall address the following:

(A) A description of the current specialized care system and its strengths and weaknesses.

(B) The characteristics of children receiving specialized care and the cost of that care.

(C) The types of specialized care which are needed by children but which are not readily available for these children; the cost of providing that care; and the current placements of children with special needs in the absence of that care.

(D) The extent to which specialized foster family care can provide an alternative to group home care and the costs and savings which would be associated with greater emphasis on specialized family foster care.

(E) Recommendations on needed improvements to specialized family foster care.

(f) (1) As used in this section, "clothing allowance" means the amount paid with state participation in addition to the basic rate for the provision of additional clothing for an AFDC-FC child, including, but not limited to, an initial supply of clothing and school or other uniforms.

(2) Any county that, as of the effective date of this section, has in effect clothing allowances, shall continue to receive the same level as it received on the effective date of this section.

(3) Beginning January 1, 1990, clothing allowances shall be adjusted annually in accordance with the methodology for the schedule of basic rates described in subdivision (c). No county shall be reimbursed for any increases in clothing allowances which exceed the adjustments made in accordance with this methodology.

SEC. 164. Section 13700 of the Welfare and Institutions Code is amended to read:

13700. The Legislature finds and declares all of the following:

(a) There are homeless minors living on the streets of major urban centers in this state without adequate food, shelter, health care, or

financial support.

(b) Many of these homeless youth in these urban centers come from out-of-city or out-of-county locations.

(c) The homeless child, in many instances, has a history of physical or sexual abuse at home, and of having been rejected or forced out of the parental home.

(d) While living on the streets, these youth fall prey to drug abuse, prostitution, and other illegal activities.

(e) Local public agencies are unable to provide these youth with an adequate level or range of remedial services.

(f) These homeless minors are urgently in need of specialized services to locate them, to assist them with their immediate survival needs, and to address their long-term need to reunite with their parents or find a suitable home.

(g) Two homeless youth emergency service pilot programs, one in the City of Los Angeles, and one in the City and County of San Francisco, have demonstrated the need for ongoing programs to meet the needs of homeless minors and the effectiveness of these programs in meeting these needs.

The purpose of this chapter is therefore to maintain one homeless youth emergency project in the County of Los Angeles and one in the City and County of San Francisco, where the problem is most acute, and to the extent funds are appropriated in the Budget Act of 1991, to establish additional homeless youth emergency service pilot projects pursuant to this chapter. It is the further purpose of this chapter to examine the condition of homeless youth in major urban areas of this state with populations of 500,000 or more, as well as other urban, suburban, and rural areas, and develop a profile of homeless youth in terms of background and available services, in order to locate these youth, to provide for their emergency survival needs, and to assist them in reunification with their parents or in finding a suitable home.

SEC. 165. Section 14085.5 of the Welfare and Institutions Code is amended to read:

14085.5. (a) Each disproportionate share hospital contracting to provide services under this article or contracting with a county organized health system, and which has or would have met the state criteria developed pursuant to the federal Medicaid requirements regarding disproportionate hospitals for the three most recent years, may, in addition to the rate of payment provided for in the contract entered into under this article, receive supplemental reimbursement to the extent provided for in this section.

(b) (1) (A) A hospital qualifying pursuant to subdivision (a) shall submit documentation regarding debt service on revenue bonds used for financing the construction, renovation, or replacement of hospital facilities, including buildings and fixed equipment.

(B) Qualified hospitals may submit debt service instruments to the department and to the commission regarding debt issued for new

capital projects.

(C) Eligible projects shall include those new capital projects funded by new debt for which final plans have been submitted to the Office of the State Architect and the Office of Statewide Health Planning and Development after July 1, 1989, and prior to June 30, 1994.

(D) The department shall confirm in writing hospital and project eligibility for partial financing under this section.

(E) Department advisory letters, conditioned on hospital and project conformity to plans, may be requested by hospitals prior to final plan submission.

(F) (i) Capital projects receiving partial financing under this section shall finance the upgrading or construction of buildings and equipment to a level required by currently accepted medical practice standards, including projects designed to correct Joint Commission on Accreditation of Hospitals and Health Systems fire and life safety, seismic, or other related regulatory standards.

(ii) Projects may also expand service capacity as needed to maintain current or reasonably foreseeable necessary bed capacity to meet the needs of Medi-Cal beneficiaries after giving consideration to bed capacity needed for other patients, including unsponsored patients.

(iii) (aa) Debt service shall only be paid for projects, or for that portion of projects, that are available and accessible to patients treated under this article or by successor programs.

(bb) Each project shall cost at least five million dollars ($5,000,000) or, if less than five million dollars ($5,000,000), the project shall be necessary for retention of federal and state licensing and certification and for meeting fire and life safety, seismic, or other related regulatory standards.

(iv) Supplemental reimbursement payments shall commence no later than 30 days after receipt of the certificate of occupancy by the hospital.

(v) (aa) The state shall pledge to, and agree with, the holders of any revenue bonds issued to finance projects qualifying under this section that until debt service on the revenue bonds is fully paid, or until the supplemental rate is no longer required as provided by this section, the state will not limit or alter the rights vested in the hospital to receive supplemental reimbursement pursuant to this section.

(bb) The state shall pledge, and the hospital shall, as a condition of encumbering supplemental reimbursement payments received pursuant to this section, pledge that supplemental reimbursement payments shall be used for the payment of debt service on the revenue bonds. The hospital shall include its pledge and the agreement with the state in any agreement with the holders of the revenue bonds.

(c) The hospital's supplemental reimbursement for a project qualifying pursuant to subdivisions (a) and (b) shall be calculated as

follows:

(1) For any fiscal year for which the hospital is eligible to receive reimbursement, the hospital shall report to the department the amount of debt service on the revenue bonds issued to finance the project.

(2) The department shall use the Medicaid inpatient utilization rate as determined pursuant to Section 4112 of the Omnibus Budget Reconciliation Act of 1987 to determine the ratio of the hospital's total paid Medi-Cal patient days to total patient days.

(3) (A) (i) The supplemental Medi-Cal reimbursement to the hospital for each fiscal year shall equal the amount determined annually in paragraph (1) multiplied by the percentage figure determined in paragraph (2). In no instance shall the percentage figure determined pursuant to the ratio derived under paragraph (2) be decreased by more than 10 percent of the initial ratio determined pursuant to paragraph (2) prior to the retirement of the debt.

(ii) Hospitals whose Medi-Cal ratio falls below 90 percent of the initial level established at the point of final plan submission shall at least maintain the volume of Medi-Cal utilization which was recorded at the time of final plan submission unless forces beyond the hospital's control have decreased the absolute volume of care.

(B) (i) In no instance shall the total amount of reimbursement received under this section combined with that received from all other sources dedicated exclusively to debt service exceed 100 percent of the debt service over the life of the loan.

(ii) A hospital qualifying for and receiving supplemental Medi-Cal reimbursement shall continue to receive the reimbursement until the qualifying loan is paid off, or the hospital is terminated as a Medi-Cal selective contractor and the hospital does not contract with a county organized health system.

(iii) It is the intent of the Legislature that the state and the qualifying hospital shall negotiate in good faith for rates sufficient to ensure continued hospital participation in the program and to ensure adequate access to services for Medi-Cal beneficiaries.

(iv) The state shall not terminate a contract with a qualified provider for the purpose of terminating the capital supplement.

(v) If negotiations fail to permit continuation of a contract of a hospital qualifying for the supplemental Medi-Cal reimbursement, the supplemental Medi-Cal reimbursement shall cease as of the date of discontinuance of the selective provider contract.

(4) In order to ensure provision of qualified supplemental payments to disproportionate share hospitals contracting with county organized health systems, the department shall make the qualified supplemental payments directly to these hospitals.

(5) Funding for these supplemental payments shall be separately appropriated as a line item in the Budget Act for each fiscal year for any project for which a request for payment is received after April 1 of each fiscal year. The department shall request a deficiency appropriation if funds for the payment are not appropriated in the

Budget Act.

(6) The department shall provide the Department of Finance, the Legislative Analyst, and the Joint Legislative Budget Committee with its estimate of the budget year costs of the supplemental reimbursement program, on January 10 and May 15 of each year.

(7) (A) Paragraphs (1) to (4), inclusive, shall be incorporated into an amendment to any contract entered into by a hospital pursuant to this article.

(B) (i) Any contract amendment required by paragraph (A) shall include a payment methodology based on inpatient hospital services rendered to Medi-Cal patients, either on a per diem basis, a per-discharge basis, or any other federally permissible basis, and which is consistent with the hospital's Medi-Cal contract.

(ii) The payment methodology specified in clause (i) shall ensure that the hospital, on an annual basis, receives the amount of supplemental reimbursement calculated pursuant to paragraph (3), excluding only the federal portion of costs which have been determined by the federal government not to be allowable under Title XIX of the federal Social Security Act (Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code).

(iii) The payment methodology specified in clause (i) shall contain a retrospective adjustment mechanism to ensure that, regardless of the payment methodology, the department shall pay the hospital the full amount owed to the hospital for the year, as determined pursuant to this section.

(8) In negotiating contracts with hospitals receiving payments under this section, the commission shall take appropriate steps to ensure the duplicate payments are not made to the hospital for the debt service costs relating to the eligible project.

(d) All reimbursement received by a hospital pursuant to this section shall be placed in a special account, the funds in which shall be used exclusively for the payment of debt service on the revenue bonds issued to finance the project.

(e) If contracting under this section is superceded by other arrangements for payment of inpatient hospital services, the successor program shall include separate reimbursement, as determined pursuant to paragraph (3) of subdivision (c).

(f) (1) For purposes of this section, "revenue bonds" are defined as that term is defined in subdivision (c) of Section 15459 of the Government Code, and shall also include general obligation bonds issued by or on behalf of eligible hospitals for projects of more than five million dollars ($5,000,000).

(2) (A) The aggregate principal amount of general obligation bonds to be issued as revenue bonds under this subdivision for the anticipated allowable portion of projects shall not, in any fiscal year, exceed a statewide amount established in the Medi-Cal estimates submitted to the fiscal committees of the Legislature pursuant to Section 14100.5, or as otherwise statutorily determined by the

Legislature.

(B) In preparing Medi-Cal estimates, the department shall consider, but need not include, all actual and anticipated projects.

(g) (1) The department shall promptly seek any necessary federal approvals for the implementation of this section, and, if necessary to obtain federal approval, the department may, for federal purposes, limit the program to those costs which are allowable expenditures under Title XIX of the federal Social Security Act (Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code), subject to paragraph (2).

(2) The department shall continue to be responsible for the reimbursement of eligible providers from state funds for the amount of supplemental reimbursement pursuant to paragraph (3) of subdivision (c), excluding only the federal portion of costs which have been determined by the federal government not to be allowable under Title XIX of the federal Social Security Act.

(h) (1) A hospital receiving supplemental reimbursement pursuant to this section shall be liable for any reduced federal financial participation resulting from the implementation of this section.

(2) The department shall submit claims for federal financial participation for all elements of the supplemental reimbursements which are allowable expenditures under federal law.

(3) The department shall, on an annual basis, submit any necessary materials to the federal government to provide assurances that claims for federal financial participation will include only those expenditures which are allowable under federal law.

(4) (A) The department may require that hospitals receiving supplemental reimbursement submit data necessary for the department to determine the appropriate amounts to claim as expenditures qualifying for federal financial participation.

(B) Unless otherwise permitted by federal law, the total statewide payment under the selective provider contracting program, in the aggregate on an annual basis, shall not exceed an amount that would otherwise have been paid under the Medi-Cal program on a statewide basis for the same services, in the aggregate on an annual basis, if the contracting program were not implemented.

SEC. 166. Section 18425 of the Welfare and Institutions Code is amended to read:

18425. (a) The department shall implement a pilot project in the City and County of San Francisco, upon the approval of the board of supervisors, to house an eligible child with the only custodial parent, in a treatment facility, when the parent has been ordered by the court to receive substance abuse treatment in the treatment facility setting.

(b) For purposes of this section, "eligible child" means any child who meets all of the following criteria:

(1) The child has been adjudicated a dependent child of the court pursuant to Section 300.

(2) The custodial parent with whom the child is living is required by the courts, as a condition of family maintenance, to reside in the treatment facility which provides a program of substance abuse treatment to the parent.

(c) The county shall provide services required in family maintenance regulations.

(d) (1) Only treatment facilities which have been certified by the State Department of Alcohol and Drug Programs as meeting the standards adopted by that department pursuant to Section 11830.5 of the Health and Safety Code, may house eligible children for purposes of the pilot program or claim reimbursement pursuant to this chapter.

(2) (A) The county shall submit a proposal to the department outlining the services available to the eligible child in the treatment facility with the custodial parent.

(B) The proposal required by subparagraph (A) shall include all of the following:

(i) The characteristics of the treatment facility.

(ii) The number of beds in the treatment facility.

(iii) A plan outlining the care and supervision arrangements for the eligible child by the custodial parent or other adult clients.

(iv) The ratio of staff to custodial parent and the eligible child population.

(v) The eating and sleeping arrangements for the custodial parent and eligible child population.

(vi) Fire drill and disaster plan procedures.

(e) (1) (A) The county shall reimburse the treatment facility at the rate of two hundred seventy-one dollars ($271) per month per eligible child housed in the facility.

(B) The participating county shall participate in the reimbursement payment required by subparagraph (A) on behalf of each eligible child, at the sharing ratio specified in subdivision (c) of Section 15200.

(2) The amount of the reimbursement payment specified in paragraph (1) shall be adjusted on July 1 of each fiscal year during the pilot project, pursuant to Section 11453, subject to the availability of funds.

(f) (1) The department shall, on or before December 31, 1993, report to the appropriate committees of the Legislature on the success of the pilot project implemented pursuant to this section.

(2) The report required by paragraph (1) shall include, but not be limited to, all of the following information:

(A) The number of parents in a treatment facility and the number of their children who live with them.

(B) The length of time parents and their eligible children live in the treatment facility.

(C) The number of children removed from their families and placed in foster care following a stay in the facility.

(D) The extent of continued contact by families with the child

welfare system following their stay in the facility.

(E) The average annual per person cost, and the total annual cost of the placement.

(g) The pilot project shall be deemed successful if the parents and children served by the pilot project have a higher rate of family maintenance than parents and children who have not been served by the pilot program.

(h) This chapter shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1994, deletes or extends that date.

SEC. 167. Any section of any act enacted by the Legislature during the 1991 calendar year, which takes effect on or before January 1, 1992, and which amends, amends and renumbers, adds, repeals and adds, or repeals a section amended, amended and renumbered, repealed and added, or repealed by this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, this act. The repeal, or repeal and addition, of any article, chapter, part, title, or division of any code by this act shall not become operative if any section of any other act amends, amends and renumbers, adds, repeals and adds, or repeals any section contained in that article, chapter, part, title, or division.

CHAPTER 1092

An act to add Section 27491.8 to the Government Code, relating to coroners.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 27491.8 is added to the Government Code, to read:

27491.8. (a) When the coroner seeks a confidential communication of a deceased person that is privileged under Article 6 (commencing with Section 990) or Article 7 (commencing with Section 1010) of Chapter 4 of Division 8 of the Evidence Code, by means of a subpoena or subpoena duces tecum, for the purpose of inquiry into, and determination of, the circumstances, manner, and cause of death as set forth in Section 27491, or for the sole purpose of being introduced as evidence at a coroner's inquest proceeding, the coroner shall provide notice to the decedent's personal representative personally or at his or her last known address, not less than 15 days prior to the date the records are to be delivered to the presiding judge of the superior court. The notice shall inform the personal representative that he or she may provide to the court a written objection to the disclosure or to any part thereof, on or before

the date for delivery thereof to the court. The custodian shall deliver the records to the presiding judge of the superior court in a confidential manner. The presiding judge shall examine the records in camera. If there is good cause, the presiding judge shall direct the custodian to disclose to the coroner those portions of the records which the judge determines are relevant to the coroner's inquiry or inquest.

(b) A communication made available to the coroner pursuant to this section is confidential, except insofar as it is introduced into evidence at a coroner's inquest proceeding, and shall not be distributed or made available to any other person, agency, firm, or corporation.

(c) This communication shall not be admissible as former testimony pursuant to Article 9 (commencing with Section 1290) of Chapter 2 of Division 10 of the Evidence Code.

(d) After the investigation or inquest has terminated, the court shall order the records thereof to be sealed as necessary to protect the confidentiality of the decedent's medical or mental health information.

CHAPTER 1093

An act to amend Section 6103.9 of the Government Code, relating to child and spousal support.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 6103.9 of the Government Code is amended to read:

6103.9. (a) Notwithstanding any other provision of law, except as provided in this section, the district attorney shall be exempt from the payment of any fees, including fees for service of process and filing fees, in any action or proceeding brought for the establishment of a child support obligation or the enforcement of a child or spousal support obligation. Costs associated with those activities shall be subject to reimbursement by the district attorney only as provided for in this section.

(b) The district attorney may reimburse a county for those direct costs related to the establishment of a child support obligation or the enforcement of a child or spousal support obligation which have been agreed to pursuant to a plan of cooperation. Any reimbursement pursuant to a plan of cooperation shall not include any amount which is payable as a filing fee.

(c) For purposes of this section, a "plan of cooperation" means an agreement entered into by the district attorney and the county clerk

of his or her county which is approved by the State Department of Social Services and which provides that the district attorney will reimburse the county for the cost of providing clerical and administrative support furnished by the county clerk.

CHAPTER 1094

An act to amend Section 436.8 of, to add Section 436.815 to, and to add Article 10 (commencing with Section 436.70) to Chapter 4 of Part 1 of Division 1 of the Health and Safety Code, relating to health, and making an appropriation therefor.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 436.8 of the Health and Safety Code is amended to read:

436.8. A loan shall be eligible for insurance under this chapter if all of the following conditions are met:

(a) When the borrower is a nonprofit corporation, such loan shall be secured by a mortgage, first lien, trust indenture, or such other security agreement as the office may require subject only to such conditions, covenants and restrictions, easements, taxes, and assessments of record approved by the office. When the borrower is a political subdivision, such loan may be evidenced by a duly authorized bond issue. A loan to a local hospital district or county may meet the requirement of this subdivision by either method.

(b) The borrower obtains an American Land Title Association title insurance policy with the office designated as beneficiary, with liability equal to the amount of the loan insured under this chapter, and with such additional endorsements as the office may reasonably require.

(c) The proceeds of the loan shall be used exclusively for the construction, improvement, or expansion of the health facility, as approved by the office under Section 436.4. However, loans insured pursuant to this chapter may include loans to refinance another prior loan, whether or not state insured and without regard to the date of the prior loan, if the office determines that the prior loan would have been eligible for insurance under this chapter at the time it was made. The office may not insure a loan for a health facility which is not needed as determined by the state plan developed under the authorization of Section 436.4.

(d) The loan shall have a maturity date not exceeding 30 years from the date of the beginning of amortization of the loan, except as authorized by subdivision (e), or 75 percent of the office's estimate of the economic life of the health facility, whichever is the lesser.

(e) The loan shall contain complete amortization provisions requiring periodic payments by the borrower not in excess of its reasonable ability to pay as determined by the office. The office shall permit a reasonable period of time during which the first payment to amortization may be waived on agreement by the lender and borrower. The office may, however, waive the amortization requirements of this subdivision and of subdivision (g) of this section when a term loan would be in the borrower's best interest.

(f) The loan shall bear interest on the amount of the principal obligation outstanding at any time at a rate, as negotiated by the borrower and lender, as the office finds necessary to meet the loan money market. As used in this chapter, "interest" does not include premium charges for insurance and service charges if any. Where a loan is evidenced by a bond issue of a political subdivision, the interest thereon may be at any rate which such bonds may legally bear.

(g) The loan shall provide for the application of the borrower's periodic payments to amortization of the principal of the loan.

(h) The loan shall contain such terms and provisions with respect to insurance, repairs, alterations, payment of taxes and assessments, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters as the office may in its discretion prescribe.

(i) The loan shall have a principal obligation not in excess of an amount equal to 90 percent of the total construction cost. Where the borrower is a political subdivision, the office may fully insure loans equal to the total construction cost.

(j) The borrower shall offer reasonable assurance that the services of the health facility will be made available to all persons residing or employed in the area served by the facility.

(k) A certificate of need or certificate of exemption has been issued for the project to be financed pursuant to Part 1.5 (commencing with Section 437) of this division, unless the project is not subject to such requirement.

(*l*) In the case of acquisitions, a project loan shall be guaranteed only for transactions not in excess of the fair market value of the acquisition.

Fair market value shall be determined, for purposes of this subdivision, pursuant to the following procedure, which shall be utilized during the state review of a loan guarantee application:

(1) Completion of a property appraisal by an appraisal firm qualified to make appraisals, as determined by the office, before closing a loan on the project.

(2) Evaluation of the appraisal in conjunction with the book value of the acquisition by the office. When acquisitions involve additional construction, the office shall evaluate the proposed construction to determine that the costs are reasonable for the type of construction proposed. In those cases where this procedure reveals that the cost of acquisition exceeds the current value of a facility, including

improvements, then the acquisition cost shall be deemed in excess of fair market value.

(m) Notwithstanding subdivision (i), any loan in the amount of five million dollars ($5,000,000) or less may be insured up to 95 percent of the total construction cost.

In determining financial feasibility of projects of counties pursuant to this section, the office shall take into consideration any assistance for the project to be provided under Sections 14085.5 and 16715 of the Welfare and Institutions Code or from other sources. It is the intent of the Legislature that the office endeavor to assist counties in whatever ways are possible to arrange loans which will meet the requirements for insurance prescribed by this section.

SEC. 2. Article 10 (commencing with Section 436.70) is added to Chapter 4 of Part 1 of Division 1 of the Health and Safety Code, to read:

Article 10. Community Health Center Facilities Loan Insurance

436.70. This article shall be known and may be cited as the Community Health Center Facilities Loan Insurance Law.

436.75. (a) "Community health center facilities" as used in this article, means those licensed, nonprofit primary care clinics as defined in paragraph (1) of subdivision (a) of Section 1204.

(b) Notwithstanding subdivision (i) of Section 436.8, any loan in the amount of five million dollars ($5,000,000) or less for a community health center facility pursuant to this chapter may be insured up to 95 percent of the total construction cost.

(c) Community health center facilities applying for any loan insurance pursuant to this chapter, may use existing equity in buildings, equipment, and donated assets, including, but not limited to, land and receipts from expenses related to the capital outlay for the project, notwithstanding the date of occurrence to meet the equity requirements of this chapter. In determining the value of the equity in any donated property, the office may use the original purchase price or the current appraised value.

(d) Any state plan referred to in Section 436.4 developed by the office shall include a chapter identifying any impediments that preclude small facilities from utilizing the California Health Facility Construction Loan Insurance Program. The state plan shall also include specific programmatic remedies to enable small projects to utilize the program if impediments are found.

SEC. 3. Section 436.815 is added immediately following Section 436.81 to the Health and Safety Code, to read:

436.815. Subdivisions (b) and (c) of Section 436.75 shall apply to any residential or nonresidential alcoholism or drug abuse recovery or treatment program or facility, as certified under Section 11831.5, or licensed under Section 11834.19; and any facility that provides an organized program of therapeutic, social, and health activities and services to persons with functional impairments, as licensed under

Section 1576.

SEC. 4. It is the intent of the Legislature in enacting this act to encourage the development of facilities for community-based nonprofit primary care clinics that assist clients with primary care and preventative health programs as well as to encourage and expand community-based recovery and treatment programs for substance abusers, and encourage and expand community-based adult day health care centers. It is further the intent of the Legislature to encourage local programs to seek funding for facility development from private sources and assistance provided pursuant to this chapter.

CHAPTER 1095

An act to add Section 21025.3 to the Government Code, relating to public retirement.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 21025.3 is added to the Government Code, to read:

21025.3. Upon the receipt by the board of an application for disability retirement with respect to a state peace officer/firefighter member, state patrol member, or a state safety member, the board shall inform both the employer and the member of all information required for the board to make its determination. The board shall make its determination within three months of the receipt by the board of all information required to make a determination for disability retirement on an application submitted by a state peace officer/firefighter member, state patrol member, or a state safety member for disability retirement pursuant to this article.

This section shall not become operative unless and until the Department of Finance or the Legislature authorizes the augmentation of the operating budget of the board to include three additional permanent, full-time positions to make possible this enhanced level of service.

CHAPTER 1096

An act to repeal Section 2708 of the Public Resources Code, and to add Section 6308.5 to the Water Code, relating to seismic safety, and making an appropriation therefor.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 2708 of the Public Resources Code is repealed.

SEC. 2. Section 6308.5 is added to the Water Code, to read:

6308.5. Notwithstanding Section 6308, the first fifty thousand dollars ($50,000) derived from the fees and charges and received each year shall be deposited in the Strong-Motion Instrumentation Special Fund created by Section 2706 of the Public Resources Code and shall be used for the instrumentation of dams as part of the Strong-Motion Instrumentation Program pursuant to Chapter 8 (commencing with Section 2700) of Division 2 of the Public Resources Code.

SEC. 3. Section 2 of this act shall become operative only if AB 984 of the 1991–92 Regular Session is enacted and takes effect and amends Sections 6300 and 6307 of the Water Code.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1097

An act to amend Sections 8008, 8020, 8022, 8023.5, 8024, 8024.2, 8025, 8027, 8030.2, 8030.4, 8030.6, 8030.8, and 8031 of, and to add Section 8025.1 to, the Business and Professions Code, relating to shorthand reporters, and making an appropriation therefor.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 8008 of the Business and Professions Code, as amended by Section 1 of Chapter 505 of the Statutes of 1990, is

amended to read:

8008. The board also has the following powers and duties:

(a) To adopt a seal.

(b) By affirmative vote of at least three members of the board, to suspend or revoke a certificate, for any cause specified in this chapter.

(c) To charge and collect all fees as provided for in this chapter.

(d) To require the renewal of all certificates.

(e) To issue subpoenas, to administer oaths, and to take testimony concerning any matter within the jurisdiction of the board.

(f) To administer a fund established from the fees collected pursuant to Section 8031, or from any other donated sources, to reimburse indigent litigants for the cost of preparation of official transcripts of court proceedings and deposition proceedings.

(g) To submit to the Legislature no later than September 1 annually, a report concerning the past fiscal year's experience with the Transcript Reimbursement Fund. The report shall include, but is not limited to, information which indicates the following:

(1) The number of requests for reimbursement.

(2) The number of requests granted.

(3) The number of requests denied.

(4) The total amount of funds disbursed.

(5) The amount of any remaining unexpended funds.

(6) The anticipated funding level needed to meet all requests in the following fiscal year.

(7) The total amount of refunds resulting from either a judicial award or settlement agreement which includes provisions for attorneys' fees or costs as provided in subdivision (c) of Section 8030.2.

(8) The amount of funds received from other sources.

(h) To investigate the actions of any licensee, upon receipt of a verified complaint in writing from any person, for alleged acts or omissions constituting grounds for disciplinary action under the chapter.

This section shall remain in effect only until June 30, 1996, and as of that date is repealed.

SEC. 2. Section 8008 of the Business and Professions Code, as amended by Section 2 of Chapter 505 of the Statutes of 1990, is amended to read:

8008. The board also has the following powers and duties:

(a) To adopt a seal.

(b) By affirmative vote of at least three members of the board, to suspend or revoke a certificate, for any cause specified in this chapter.

(c) To charge and collect all fees as provided for in this chapter.

(d) To require the renewal of all certificates.

(e) To issue subpoenas, to administer oaths, and to take testimony concerning any matter within the jurisdiction of the board.

(f) To investigate the actions of any licensee, upon receipt of a

verified complaint in writing from any person, for alleged acts or omissions constituting grounds for disciplinary action under the chapter.

This section shall become operative on June 30, 1996.

SEC. 3. Section 8020 of the Business and Professions Code is amended to read:

8020. Any person over the age of 18 years, who has not committed any acts or crimes constituting grounds for denial of licensure under Sections 480, 8025, and 8025.1, who has a high school education or its equivalent as determined by the board, and who has satisfactorily passed an examination under any regulations that the board may prescribe shall be entitled to a certificate and shall be styled and known as a certified shorthand reporter. No person shall be admitted to the examination without first presenting satisfactory evidence to the board that within the five years immediately preceding the date of application for a certificate the applicant has obtained one of the following:

(a) One year of experience in making verbatim records of meetings, conferences, hearings, or judicial or related proceedings by means of written symbols or abbreviations in shorthand or machine writing and transcribing these records.

(b) A verified certificate of satisfactory completion of a prescribed course of study in a recognized court reporting school or certificate from the school evidencing equivalent proficiency and of the ability to make a verbatim record of material dictated in accordance with regulations adopted by the board contained in Title 16 of the California Code of Regulations.

(c) National Shorthand Reporters Association certificate of proficiency or certificate of merit.

(d) A passing grade on the California state hearing reporters examination.

(e) A valid certified shorthand reporters certificate or license to practice shorthand reporting issued by a state other than California whose requirements and licensing examination are substantially the same as those in California.

SEC. 4. Section 8022 of the Business and Professions Code is amended to read:

8022. (a) Each applicant for a certificate under this chapter shall file an application with the executive officer, on a form as prescribed by the board, at least 45 days before the date fixed for examination, and the application shall be accompanied by the required fee. For purposes of determining the date upon which an application is deemed filed with the executive officer, the date of postmark as affixed by the United States Postal Service, or the date certified by a bona fide private courier service on the envelope containing the application shall control.

(b) Nothing in this section shall be construed to limit the board's authority to seek from any applicant any other information pertinent to the background, education, and experience of the applicant that

may be deemed necessary in order to evaluate the applicant's qualifications and fitness for licensure.

SEC. 5. Section 8023.5 of the Business and Professions Code is amended to read:

8023.5. If an applicant for a certificate is from a country where the principal language spoken is one other than English, the board may, in addition to any other examination required by this chapter, examine the applicant on his or her knowledge of the English language.

SEC. 6. Section 8024 of the Business and Professions Code is amended to read:

8024. All certificates issued under this chapter shall be valid for a period of one year, except for the initial period of licensure as prescribed by the board, and shall expire at 12 midnight on the last day of the month of birth of the licensee unless renewed.

To renew an unexpired certificate, the certificate holder shall, on or before each of the dates on which it would otherwise expire, apply for renewal on a form prescribed by the board, and pay the renewal fee prescribed by this chapter.

SEC. 7. Section 8024.2 of the Business and Professions Code is amended to read:

8024.2. Except as otherwise provided in this article, a certificate which has expired may be renewed at any time within the period set forth in Section 8024.5 on filing of application for renewal on a form prescribed by the board, and payment of the renewal fee in effect on the last regular renewal date. If the certificate is not renewed within 30 days after its expiration, the certificate holder, as a condition precedent to renewal, shall also pay the delinquency fee set forth in Section 163.5. Renewal under this section shall be effective on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the certificate shall continue in effect through the date provided in Section 8024 which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

SEC. 8. Section 8025 of the Business and Professions Code is amended to read:

8025. A certificate issued under this chapter may be suspended or revoked, or certification may be denied, for one or more of the following causes:

(a) Conviction of a crime substantially related to the qualifications, functions and duties of a certified shorthand reporter. The record of conviction, or a certified copy thereof, shall be conclusive evidence of the conviction.

(b) Fraud or misrepresentation resorted to in obtaining a certificate hereunder.

(c) Fraud, dishonesty, corruption, willful violation of duty, gross negligence or incompetency in practice, or unprofessional conduct.

"Unprofessional conduct" includes, but is not limited to, acts contrary to professional standards concerning confidentiality;

impartiality; filing and retention of notes; notifications, availability, delivery, execution and certification of transcripts; and any provision of law substantially related to the duties of a certified shorthand reporter.

(d) Repeated unexcused failure, whether or not willful, to transcribe notes of cases pending on appeal and to file the transcripts thereof within the time required by law or to transcribe or file notes of other proceedings within the time required by law or agreed by contract.

(e) Violation of this chapter or the rules and regulations adopted by the board.

SEC. 9. Section 8025.1 is added to the Business and Professions Code, to read:

8025.1. In addition to the causes for discipline or denial of certification set forth in Section 8025, the board may suspend or revoke any certificate, or deny certification, on any of the following grounds:

(a) That the applicant or licensee is incapable of performing the duties of a certified shorthand reporter due to physical or mental infirmity or incapacity.

(b) That the applicant or licensee is unable to perform the duties of a certified shorthand reporter due to the abuse of chemical substances or alcohol.

(c) For purposes of determining the existence or nonexistence of grounds for denial, suspension, or revocation of a license as set forth in this section the board may, based upon a reasonable belief that grounds exist, require the applicant or licensee to submit to a physical or mental examination or examinations by a licensed physician as designated by the board. Failure to submit to, or to schedule a physical or mental examination within 10 days of written demand by the board shall result in the automatic suspension of any license or the denial of any application. The denial of an application on any of the grounds set forth in this section shall be subject to the provisions of Sections 11504 and 11504.5 of the Government Code. The licensee may request a hearing to contest an automatic suspension of licensure under this section by sending a written request for hearing to the offices of the board within 12 days of the date that the board mails a notice of suspension to the licensee. If a hearing is requested, it shall be convened within 30 days after the receipt by the board of the written request for the hearing. The hearing shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The sole issue for determination in the hearing, whether for denial or suspension of license, shall be whether the licensee failed or refused to submit to the physical or mental examination after being duly ordered to do so by the board. Evidence that the licensee has, since the date of automatic suspension, submitted to a mental or physical examination shall be considered as mitigation of any failure or refusal to comply with the

board's order, and may, in the sound discretion of the administrative law judge, constitute cause to set aside any automatic suspension. A decision shall be rendered by the administrative law judge within 10 days of the hearing and shall constitute the final determination as to the continuing status of any automatic suspension.

(d) Following a physical or mental examination pursuant to subdivision (c), the physician conducting the examination shall determine whether the applicant or licensee is incapable of performing the duties of a certified shorthand reporter due to physical or mental infirmity or incapacity, or whether the applicant or licensee is unable to perform the duties of a certified shorthand reporter due to the abuse of chemical substances or alcohol. Where a medical determination is made that an impairment exists, and the finding is reported to the board, the board shall deny any application and any license shall be automatically suspended. The denial of an application on these grounds shall be subject to the provisions of Sections 11504 and 11504.5 of the Government Code. The licensee may request a hearing to contest an automatic suspension of licensure under this section by sending a written request for hearing to the offices of the board within 12 days of the date that the board mails a notice of suspension to the licensee. If a hearing is requested, it shall be convened within 30 days after the receipt by the board of the written request for hearing. The hearing shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The sole issue for determination in the hearing, whether for denial or suspension of license, shall be whether the applicant or licensee is incapable of performing the duties of a certified shorthand reporter due to physical or mental infirmity or incapacity, or whether the applicant or licensee is unable to perform the duties of a certified shorthand reporter due to the abuse of chemical substances or school.

(e) For purposes of the hearing conducted pursuant to subdivision (d), the licentiate shall, at a minimum, have the following rights:

(1) To be represented by counsel.

(2) To have a record made of the proceedings, copies of which may be obtained by the licentiate upon payment of any reasonable charges associated with the record.

(3) To call, examine, and cross-examine witnesses.

(4) To present and rebut evidence determined to be relevant.

(5) To present oral argument.

(f) The statutory period governing reapplication for licensure following denial of the application as set forth in Section 486 shall not apply to licenses denied under this section.

SEC. 10. Section 8027 of the Business and Professions Code is amended to read:

8027. (a) As used in this section, "school" means a court reporter training program or an institution which provides a course of

instruction approved by the board, and which is approved by the Council for Private Postsecondary and Vocational Education, is a public school in this state, or is accredited by the Western Association of Schools and Colleges.

(b) A court reporting school shall be primarily organized to train students for the practice of shorthand reporting, as defined in Sections 8016 and 8017. Its educational program shall be on the postsecondary or collegiate level, and shall be a residence program; its educational program shall not be a correspondence program. It shall be legally organized and authorized to conduct its program under all applicable laws of the state, and shall conform to and offer the minimum prescribed course of study established by the board. Its records shall be kept and shall be maintained in a manner to render them safe from theft, fire, or other loss. The records shall indicate positive daily and clock-hour attendance of each student; apprenticeship and graduation reports; high school transcripts or equivalent; transcript of other education; and, student progress to date.

(c) The board may grant provisional recognition to a new court reporting school upon satisfactory evidence that it has met all of the provisions of subdivision (b). Recognition shall be granted by the board to a provisionally recognized school after it has been in continuous operation for a period of no less than three consecutive years from the date provisional recognition was granted, during which period the school shall provide satisfactory evidence that at least one person has successfully completed the entire course of study established by the board and complied with the provisions of Section 8020, and has been issued a license to practice shorthand reporting as defined in Sections 8016 and 8017. Failure to meet the provisions and terms of this section shall require the board to deny recognition after the three-year period.

(d) Application for recognition of a court reporting school shall be made upon a form prescribed by the board and shall be accompanied by all evidence, statements, or documents requested. Each branch, extension center or off-campus facility requires separate application.

(e) All recognized and provisionally recognized court reporting schools shall notify the board of any change in school name, address, telephone number, responsible court reporting program manager, owner of private schools, and the effective date thereof, within 30 days of the change. The board shall be notified, immediately, of the discontinuance, or pending discontinuance of the school or program. All of these notifications shall be made in writing.

(f) The board shall maintain a roster of currently recognized and provisionally recognized court reporting schools including, but not limited to, the name, address, telephone number, and the name of the responsible court reporting program manager of each school.

(g) The board shall maintain statistics which display the number and passing percentage of all first-time examinees including, but not limited to, those qualified by each recognized or provisionally

recognized school and those first-time examinees qualified by other methods as defined in Section 8020.

(h) Inspections and investigations shall be conducted by the board as necessary to carry out the provisions of this section.

(i) Each court reporting school shall file with the board, not later than June 30 of each year, a current school catalog which shows all course offerings and staff, and for private schools, the owner, except that where there have been no changes to the catalog within the previous year, no catalog need be sent. In addition, each school shall also file with the board a statement certifying that the school is in compliance with all statutes and the rules and regulations of the board, signed by the responsible court reporting program manager.

SEC. 11. Section 8030.2 of the Business and Professions Code is amended to read:

8030.2. (a) To provide shorthand reporting services to low-income litigants in civil cases, who are unable to otherwise afford such services, funds generated by fees received by the board pursuant to subdivision (c) of Section 8031 in excess of funds needed to support the board's operating budget for the fiscal year in which a transfer described below is made shall be used by the board for the purpose of establishing and maintaining a Transcript Reimbursement Fund. The Transcript Reimbursement Fund shall be established by a transfer of funds from the Shorthand Reporters' Fund and shall be maintained in an amount no less than three hundred thousand dollars ($300,000) for each fiscal year.

(b) All moneys held in the Shorthand Reporters' Fund on the effective date of this section in excess of the board's operating budget for the 1986–87 fiscal year shall be used as provided in subdivision (a).

(c) Refunds and unexpended funds that are anticipated to remain in the Transcript Reimbursement Fund at the end of the fiscal year shall be considered by the board in establishing the fee assessment pursuant to Section 8031 so that the assessment shall maintain the Transcript Reimbursement Fund at the appropriate level in the following fiscal year.

(d) The Transcript Reimbursement Fund is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, moneys in the Transcript Reimbursement Fund are continuously appropriated for the purposes of this chapter.

(e) Applicants who have been reimbursed pursuant to this chapter for services provided to litigants and who are awarded court costs or attorneys' fees by judgment or by settlement agreement, shall refund the full amount of that reimbursement to the fund within 90 days of receipt of the award or settlement.

(f) Subject to the limitations of this chapter, the board shall maintain the fund at a level which is sufficient to pay all qualified claims. To accomplish this objective, the board shall utilize all refunds, unexpended funds, fees, and any other moneys received by the board.

(g) Notwithstanding Section 16346 of the Government Code, all

unencumbered funds remaining in the Transcript Reimbursement Fund as of June 29, 1986, shall be transferred to the Transcript Reimbursement Fund established by this section.

(h) Notwithstanding Section 16346 of the Government Code, all unencumbered funds remaining in the Transcript Reimbursement Fund as of June 29, 1996, shall be transferred to the Shorthand Reporters' Fund.

This section shall remain in effect only until June 30, 1996, and as of that date is repealed.

SEC. 12. Section 8030.4 of the Business and Professions Code is amended to read:

8030.4. As used in this chapter:

(a) "Qualified legal services project" means a nonprofit project incorporated and operated exclusively in California which provides as its primary purpose and function legal services without charge to indigent persons, has a board of directors or advisory board composed of both attorneys and consumers of legal services, and provides for community participation in legal services programming. Legal services projects funded either in whole or in part by the Legal Services Corporation or with Older Americans Act funds are presumed to be qualified legal services projects for the purposes of this chapter.

(b) "Qualified support center" means an incorporated nonprofit legal services center, having an office or offices in California, which office or offices provide legal services or technical assistance without charge to qualified legal services projects and their clients on a multicounty basis in California. Support centers funded either in whole or in part by the Legal Services Corporation or with Older Americans Act funds are presumed to be qualified legal services projects for the purposes of this chapter.

(c) "Other qualified project" means a nonprofit organization formed for charitable or other public purposes, not receiving funds from the Legal Services Corporation or pursuant to the Older Americans Act, which organization or association provides free legal services to indigent persons.

(d) "Pro bono attorney" means any attorney, law firm, or legal corporation, licensed to practice law in this state, which undertakes without charge to the party the representation of an indigent person, referred by a qualified legal services project, qualified support center, or other qualified project, in a case not considered to be fee generating as defined in this chapter.

(e) "Applicant" means a qualified legal services project, qualified support center, other qualified project, or pro bono attorney applying to receive funds from the Transcript Reimbursement Fund established by this chapter. The term "applicant" shall not include persons appearing pro se to represent themselves at any stage of the case.

(f) "Indigent person" means either a person whose income is 125 percent or less of the current poverty threshold established by the

Office of Management and Budget of the United States, a disabled person whose income after meeting medical and other disability-related special expenses is 125 percent or less of that current poverty threshold, or a person who receives or is eligible to receive supplemental security income.

(g) "Fee-generating case" means any case or matter which, if undertaken on behalf of an eligible client by an attorney in private practice, reasonably may be expected to result in payment of a fee for legal services from an award to a client, from public funds, or from an opposing party. For purposes of this section, it shall be deemed that a reasonable expectation as to payment of a legal fee exists wherever a client enters into a contingent fee agreement with his or her lawyer. A case shall not be considered fee generating if adequate representation is deemed to be unavailable under any of the following:

(1) Where the applicant has determined that referral is not possible because of any of the following:

(A) The case has been rejected by the local lawyer referral service, or if there is no such service, by two private attorneys who have experience in the subject matter of the case.

(B) Neither the referral service nor any lawyer will consider the case without payment of a consultation fee.

(C) The case is of the type that private attorneys in the area ordinarily do not accept, or do not accept without prepayment of a fee.

(D) Emergency circumstances compel immediate action before referral can be made, but the client is advised that, if appropriate and consistent with professional responsibility, referral will be attempted at a later time.

(2) Where recovery of damages is not the principal object of the case and a request for damages is merely ancillary to an action for equitable or other nonpecuniary relief; or inclusion of a counterclaim requesting damages is necessary for effective defense or because of applicable rules governing joinder of counterclaims.

(3) Where a court appoints an applicant or an employee of an applicant pursuant to a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction.

(4) In any case involving the rights of a claimant under a public supported benefit program for which entitlement to benefit is based on need.

(h) "Legal Services Corporation" means the Legal Services Corporation established under the Legal Services Corporation Act of 1974, Public Law 93-355, as amended.

(i) "Supplemental security income recipient" means an individual receiving or eligible to receive payments under Title XVI of the Social Security Act, Public Law 92-603, as amended, or payment under Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(j) "Lawyer referral service" means a lawyer referral program

authorized by the State Bar of California pursuant to the rules of professional conduct.

(k) "Older Americans Act" means the Older Americans Act of 1965, Public Law 89-73, as amended.

(*l*) "Rules of professional conduct" means those rules adopted by the State Bar pursuant to Sections 6076 and 6077.

(m) "Certified shorthand reporter" means a shorthand reporter certified pursuant to Article 3 (commencing with Section 8020).

(n) "Case" means a single legal proceeding from its inception, through all levels of hearing, trial, and appeal, until its ultimate conclusion and disposition.

This section shall remain in effect only until June 30, 1996, and as of that date is repealed.

SEC. 13. Section 8030.6 of the Business and Professions Code is amended to read:

8030.6. The board shall disburse funds from the Transcript Reimbursement Fund, in accordance with the procedures set forth below, to the applicant or the certified shorthand reporter designated in the application for the costs, exclusive of per diem charges, of preparing either an original transcript and one copy thereof, or where appropriate, a copy of the transcript, of court or deposition proceedings, or both, incurred as a contractual obligation between the shorthand reporter and the applicant, for litigation conducted in California:

(a) The applicant or certified shorthand reporter shall promptly submit to the board the certified shorthand reporter's invoice for transcripts together with the appropriate documentation as is required by this chapter.

(b) Except as provided in subdivision (c), the board shall promptly determine if the applicant is entitled to reimbursement under this chapter and shall make payment as follows:

(1) Regular customary charges for preparation of original deposition transcripts and one copy thereof, or a copy of the transcripts.

(2) Regular customary charges for expedited deposition transcripts up to a maximum of two thousand five hundred dollars ($2,500) per case.

(3) Regular customary charges for the preparation of original transcripts and one copy thereof, or a copy of transcripts of court proceedings.

(4) Regular customary charges for expedited or daily charges for preparation of original transcripts and one copy thereof or a copy of transcripts of court proceedings.

(c) The maximum amount reimbursable by the fund under both paragraphs (1) and (2) of subdivision (b) shall not exceed twenty thousand dollars ($20,000) per case per year.

(d) If entitled, and funds are available, the board shall forthwith disburse the appropriate sum to the applicant when documentation as provided in subdivision (d) of Section 8030.8 accompanies the

application or the certified shorthand reporter together with a notice requiring the recipient to file a notice with the court in which the action is pending advising that such sum has been paid pursuant to this section and that if such sum is subsequently included in any award of costs made in such action that such sum is to be ordered refunded by the applicant to the Transcript Reimbursement Fund whenever the sum is actually recovered as costs. The court shall not consider whether payment has been made from the Transcript Reimbursement Fund in determining the appropriateness of any award of costs to the parties. The board shall also forthwith notify the applicant that such sum has been paid to the certified shorthand reporter and shall likewise notify the applicant of the duty to refund any of such sum actually recovered as costs in the action.

(e) If not entitled, the board shall forthwith return a copy of the invoice to the applicant and the designated certified shorthand reporter together with a notice stating the grounds for denial.

(f) The board shall complete its actions under this subdivision within 30 days of receipt of the invoice and all required documentation, including a completed application.

(g) Applications for reimbursements from the fund shall be filled on a first-come basis.

(h) Applications for reimbursement which cannot be paid from the fund due to insufficiency of the fund for that fiscal year shall be held over until the next fiscal year to be paid out of the renewed fund.

This section shall remain in effect only until June 30, 1996, and as of that date is repealed.

SEC. 14. Section 8030.8 of the Business and Professions Code is amended to read:

8030.8. (a) For purposes of this chapter, documentation accompanying an invoice shall be presumed sufficient to establish entitlement for reimbursement from the Transcript Reimbursement Fund if it is filed with the executive officer on an application form prescribed by the board which is complete in all respects, and which establishes all of the following:

(1) The case name and number and that the litigant or litigants requesting the reimbursement are indigent persons.

(2) The applicant is qualified under the provisions of this chapter.

(3) The case is not a fee-generating case as defined in Section 8030.4.

(4) The invoice or other documentation shall evidence that the certified shorthand reporter to be reimbursed was, at the time the services were rendered, a duly licensed certified shorthand reporter.

(5) The invoice shall be accompanied by a statement, signed by the applicant, stating that the charges are for transcripts actually provided as indicated on the invoice.

(6) The applicant has acknowledged, in writing, that as a condition of entitlement for reimbursement that the applicant agrees to refund the entire amount disbursed from the Transcript

Reimbursement Fund from any costs or attorneys' fees awarded to the applicant by the court or provided for in any settlement agreement in the case.

(7) The certified shorthand reporter's invoice for transcripts shall include separate itemizations of charges claimed, as follows:

(A) Total charges and rates for customary services in preparation of an original transcript and one copy or a copy of the transcript of depositions.

(B) Total charges and rates for expedited deposition transcripts.

(C) Total charges and rates in connection with transcription of court proceedings.

(b) In the case of an applicant claiming to be eligible pursuant to subdivision (a), (b), or (c) of Section 8030.4, a letter from the director of such project or center, certifying that the project or center meets the standards set forth in one of those subdivisions and that the litigant or litigants are indigent persons, shall be sufficient documentation to establish eligibility.

(c) In the case of an applicant claiming to be eligible pursuant to subdivision (d) of Section 8030.4, a letter certifying that the applicant meets the requirements of that subdivision, that the case is not a fee-generating case as defined in subdivision (g) of Section 8030.4, and that the litigant or litigants are indigent persons, together with a letter from the director of a project or center defined in subdivision (a), (b) or (c) of Section 8030.4 certifying that the litigant or litigants had been referred by that project or center to the applicant, shall be sufficient documentation to establish eligibility.

(d) The applicant may receive reimbursement directly from the board when the applicant has previously paid the certified shorthand reporter for transcripts as provided in Section 8030.6. To receive payment directly, the applicant shall submit, in addition to all other required documentation, an itemized statement signed by the certified shorthand reporter performing the services which describes payment for transcripts in accordance with the requirements of Section 8030.6.

(e) The board may prescribe appropriate forms to be used by applicants and certified reporters to facilitate these requirements.

(f) Nothing in this chapter restricts the contractual obligation or payment for services, including, but not limited to, billing the applicant directly, during the pendency of the claim.

This section shall remain in effect only until June 30, 1996, and as of that date is repealed.

SEC. 15. Section 8031 of the Business and Professions Code, as amended by Section 9 of Chapter 505 of the Statutes of 1990, is amended to read:

8031. The amount of the fees required by this chapter is that fixed by the board in accordance with the following schedule:

(a) The fee for filing an application for each examination shall be no more than forty dollars ($40).

(b) The initial certificate fee is an amount equal to the renewal

fee in effect on the last regular renewal date before the date on which the certificate is issued, except that, if the certificate will expire less than 180 days after its issuance, then the fee is 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued or fifty dollars ($50), whichever is greater. The board may, by appropriate regulation, provide for the waiver or refund of the initial certificate fee where the certificate is issued less than 45 days before the date on which it will expire.

(c) By a resolution adopted by the board, a renewal fee may be established in such amounts and at such times as the board may deem appropriate to meet its operational expenses and funding responsibilities as set forth in this chapter. The renewal fee shall not be more than one hundred twenty-five dollars ($125) nor less than ten dollars ($10) annually, with the following exception:

Any person who is employed full time by the State of California as a hearing reporter and who does not otherwise render shorthand reporting services for a fee shall be exempt from licensure while in state employment and shall not be subject to the renewal fee provisions of this subdivision until 30 days after leaving state employment. The renewal fee shall, in addition to the amount fixed by this subdivision, include any unpaid fees required by this section plus any delinquency fee.

(d) The duplicate certificate fee shall be no greater than five dollars ($5).

(e) The penalty for failure to notify the board of a change of address shall be no greater than twenty dollars ($20).

This section shall remain in effect only until June 30, 1996, and as of that date is repealed.

SEC. 16. Section 8031 of the Business and Professions Code, as amended by Section 10 of Chapter 505 of the Statutes of 1990, is amended to read:

8031. The amount of the fees required by this chapter is that fixed by the board in accordance with the following schedule:

(a) The fee for filing an application for each examination shall be no more than forty dollars ($40).

(b) The initial certificate fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued, except that, if the certificate will expire less than 180 days after its issuance, then the fee is 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued, or fifty dollars ($50), whichever is greater. The board may, by appropriate regulation, provide for the waiver or refund of the initial certificate fee where the certificate is issued less than 45 days before the date on which it will expire.

(c) By a resolution adopted by the board, a renewal fee may be established in such amounts and at such times as the board may deem appropriate to meet its operational expenses and funding

responsibilities as set forth in this chapter. The renewal fee shall not be more than one hundred twenty-five dollars ($125) nor less than ten dollars ($10) annually, with the following exception:

Any person who is employed full time by the State of California as a hearing reporter and who does not otherwise render shorthand reporting services for a fee shall be exempt from licensure while in state employment and shall not be subject to the renewal fee provisions of this subdivision until 30 days after leaving state employment. The renewal fee shall, in addition to the amount fixed by this subdivision, include any unpaid fees required by this section plus any delinquency fee.

(d) The duplicate certificate fee shall be no greater than five dollars ($5).

(e) The penalty for failure to notify the board of a change of address shall be no greater than twenty dollars ($20).

This section shall become operative on June 30, 1996.

CHAPTER 1098

An act to amend Sections 1052 and 1055 of the Water Code, relating to water.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 1052 of the Water Code is amended to read:

1052. (a) The diversion or use of water subject to this division other than as authorized in this division is a trespass.

(b) Civil liability may be administratively imposed by the board pursuant to Section 1055 for a trespass as defined in this section in an amount not to exceed five hundred dollars ($500) for each day in which the trespass occurs.

(c) The Attorney General, upon request of the board, shall institute in the superior court in and for any county wherein the diversion or use is threatened, is occurring, or has occurred appropriate action for the issuance of injunctive relief as may be warranted by way of temporary restraining order, preliminary injunction, or permanent injunction.

(d) Any person or entity committing a trespass as defined in this section may be liable for a sum not to exceed five hundred dollars ($500) for each day in which the trespass occurs. The Attorney General, upon request of the board, shall petition the superior court to impose, assess, and recover any sums pursuant to this subdivision. In determining the appropriate amount, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and

persistence of the violation, the length of time over which the violation occurs, and the corrective action, if any, taken by the violator.

(e) All funds recovered pursuant to this section shall be transferred to the General Fund of the state.

(f) The remedies prescribed in this section are cumulative and not alternative.

SEC. 2. Section 1055 of the Water Code is amended to read:

1055. (a) The executive director of the board may issue a complaint to any person on whom administrative civil liability may be imposed pursuant to subdivision (a) of Section 1052. The complaint shall allege the act or failure to act that constitutes a trespass, the provision of law authorizing civil liability to be imposed, and the proposed civil liability.

(b) The complaint shall be served by personal notice or certified mail, and shall inform the party so served that the party may request a hearing within 20 days after the party has been served. The hearing shall be before a member of the board as it may specify.

(c) After any hearing, the member shall report a proposed decision and order to the board and shall supply a copy to the party served with the complaint, the board's executive director, and any other person requesting a copy. The member of the board acting as hearing officer may sit as a member of the board in deciding the matter. The board, after making an independent review of the record and taking such additional evidence as may be necessary and could not reasonably have been offered before the hearing officer, may adopt, with or without revision, the proposed decision and order.

(d) Orders setting administrative civil liability shall become effective and final upon issuance thereof and payment shall be made.

CHAPTER 1099

An act to amend Sections 25995, 25995.1, 25995.3, 25995.4, 25995.5, 25995.8, and 25996.91 of, to add Sections 25995.60, 25995.70, 25995.71, 25995.72, 25995.73, 25995.74, 25995.75, 25995.76, 25995.77, 25995.78, and 25996.10 to, and to add Chapter 13.7 (commencing with Section 25989.500) to Division 20 of, the Health and Safety Code, relating to dogs and cats.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Chapter 13.7 (commencing with Section 25989.500) is added to Division 20 of the Health and Safety Code, to read:

CHAPTER 13.7. SALE OF DOGS BY BREEDERS

25989.500. (a) This chapter shall be known and may be cited as the Polanco-Lockyer Pet Breeder Warranty Act.

(b) Every breeder of dogs shall comply with this chapter. As used in this chapter, "dog breeder," or "breeder" means a person, firm, partnership, corporation, or other association that has sold, transferred, or given away 50 or more dogs during the proceeding calendar year that were bred and reared on the premises of the person, firm, partnership, corporation, or other association.

(c) For the purposes of this chapter, "purchaser" means any person who purchases a dog from a breeder.

(d) This chapter shall not apply to pet dealers regulated under Chapter 14.5 (commencing with Section 25995), or to publicly operated pounds, humane societies, or privately operated rescue organizations.

25989.505. (a) Every breeder of dogs shall deliver to each purchaser of a dog a written disclosure containing all of the following:

(1) The breeder's name and address. If the breeder is a dealer licensed by the United States Department of Agriculture, the federal dealer identification number shall also be indicated.

(2) The date of the dog's birth and the date the breeder received the dog. If the dog is not advertised or sold as purebred, registered, or registerable, the date of birth may be approximated if not known by the breeder.

(3) The breed, sex, color, and identifying marks at the time of sale, if any. If the dog is from a United States Department of Agriculture licensed source, the individual identifying tag, tattoo, or collar number for that animal. If the breed is unknown or mixed, the record shall so indicate.

(4) If the dog is being sold as being capable of registration, the names and registration numbers of the sire and dam, and the litter number, if known.

(5) A record of inoculations and worming treatments administered, if any, to the dog as of the time of sale, including dates of administration and the type of vaccine or worming treatment.

(6) A record of any veterinarian treatment or medication received by the dog while in the possession of the breeder and either of the following:

(A) A statement, signed by the breeder at the time of sale, that:

(i) The dog has no known disease or illness.

(ii) The dog has no known congenital or hereditary condition that adversely affects the health of the dog at the time of the sale or that is likely to adversely affect the health of the dog in the future.

(B) A record of any known disease, illness, or congenital or hereditary condition that adversely affects the health of the dog at the time of sale, or that is likely to affect the health of the dog in the future, along with a statement signed by a veterinarian licensed in the State of California that authorizes the sale of the dog,

recommends necessary treatment, if any, and verifies that the disease, illness, or condition does not require hospitalization or nonelective surgical procedures, nor is it likely to require hospitalization or nonelective surgical procedures in the future. A veterinarian statement is not required for intestinal or external parasites unless their presence makes the dog clinically ill or is likely to make the dog clinically ill. The statement shall be valid for seven days following examination of the dog by the veterinarian.

(b) The written disclosure made pursuant to this section shall be signed by both the breeder certifying the accuracy of the statement, and by the purchaser of the dog acknowledging receipt of the statement.

(c) In addition, all medical information required to be disclosed pursuant to this section shall be made orally by the breeder to the purchaser.

(d) For purposes of this chapter, a disease, illness, or congenital or hereditary condition that adversely affects the health of the dog at the time of sale, or is likely to adversely affect the health of the dog in the future, shall be one which is apparent at the time of sale or which should have been known by the breeder from the history of veterinary treatment disclosed pursuant to this section.

(e) For the purpose of this chapter, "nonelective surgical procedure" means a surgical procedure that is necessary to preserve or restore the health of the dog, to prevent the dog from experiencing pain or discomfort, or to correct a condition that would otherwise interfere with the dog's ability to walk, run, jump, or otherwise function in a normal manner.

(f) For the purposes of this chapter, "clinically ill" means an illness which is apparent to a veterinarian based on observation, examination, or testing of the dog, or upon a review of the medical records relating to the dog.

25989.510. A breeder shall maintain a written record on the health, status, and disposition of each dog for a period of not less than one year after disposition of the dog. The record shall also include all of the information which the breeder is required to disclose pursuant to Section 25989.505.

25989.520. Except as provided for in paragraph (6) of subdivision (a) of Section 25989.505, no breeder shall knowingly sell a dog which is diseased, ill or has a condition, any one of which that requires hospitalization or nonelective surgical procedures. In lieu of the civil penalties imposed pursuant to Section 25989.570, any breeder who violates this section shall be subject to a civil penalty of up to one thousand dollars ($1,000), or shall be prohibited from selling dogs for up to 30 days, or both. If there is a second offense, the breeder shall be subject to a civil penalty of up to two thousand five hundred dollars ($2,500), or a prohibition from selling dogs for up to 90 days, or both. For a third offense, the breeder shall be subject to a civil penalty of up to five thousand dollars ($5,000), or a prohibition from selling dogs for up to six months, or both. For a fourth and subsequent

offense, the breeder shall be subject to a civil penalty of up to ten thousand dollars ($10,000) or a prohibition from selling dogs for up to one year, or both. For the purpose of this section, a violation which occurred over five years prior to the most recent violation shall not be considered.

An action for recovery of the civil penalty and for a court order enjoining the breeder from engaging in the business of selling dogs at retail for the period set forth in this section, may be prosecuted by the district attorney for the county in which the violation occurred, or the city attorney for the city in which the violation occurred, in the appropriate court.

25989.525. It shall be unlawful for a breeder to fail to do any of the following:

(a) Maintain facilities in which the dogs are kept in a sanitary condition.

(b) Provide dogs with adequate nutrition and potable water.

(c) Provide adequate space appropriate to the age, size, weight, and breed of dog. For purposes of this subdivision, "adequate space" means sufficient space for the dog to stand up, sit down, and turn about freely using normal body movements, without the head touching the top of the cage, and to lie in a natural position.

(d) Provide dogs housed on wire flooring with a rest board, floormat, or similar device that can be maintained in a sanitary condition.

(e) Provide dogs with adequate socialization and exercise. For the purpose of this chapter, "socialization" means physical contact with other dogs or with human beings.

(f) Wash hands before and after handling each infectious or contagious dog.

(g) Provide veterinary care without delay when necessary.

25989.530. (a) If a licensed veterinarian states in writing that within 15 days after the purchaser has taken physical possession of a dog following the sale by a breeder, the dog has become ill due to any illness or disease which existed in the dog on or before delivery of the dog to the purchaser, or, if within one year after the purchaser has taken physical possession of the dog after the sale by a breeder, a veterinarian licensed in this state states in writing that the dog has a congenital or hereditary condition which adversely affects the health of the dog, or which requires, or is likely in the future to require, hospitalization or nonelective surgical procedures, the dog shall be considered unfit for sale, and the breeder shall provide the purchaser with any of the following remedies which the purchaser elects:

(1) Return the dog to the breeder for a refund of the purchase price, plus sales tax, and reimbursement for reasonable veterinary fees for diagnosis and treating the dog in an amount not to exceed the original purchase price of the dog, including sales tax.

(2) Exchange the dog for a dog of the purchaser's choice of equivalent value, providing a replacement dog is available, and

receive reimbursement for reasonable veterinary fees for diagnosis and treating the dog in an amount not to exceed the original purchase price of the dog, plus sales tax on the original purchase price of the dog.

(3) Retain the dog, and receive reimbursement for reasonable veterinary fees for diagnosis and treating the dog in an amount not to exceed 150 percent of the original purchase price of the dog, plus sales tax.

(b) If the dog has died, regardless of the date of death of the dog, obtain a refund for the purchase price of the dog, plus sales tax, or a replacement dog of equivalent value of the purchaser's choice, and reimbursement for reasonable veterinary fees for diagnosis and treatment of the dog in an amount not to exceed the purchase price of the dog, plus sales tax, if any of the following conditions exist:

(1) A veterinarian, licensed in this state, states in writing that the dog has died due to an illness or disease which existed within 15 days after the purchaser obtained physical possession of the dog after the sale by a breeder.

(2) A veterinarian, licensed in this state, states in writing that the dog has died due to a congenital or hereditary condition which was diagnosed by the veterinarian within one year after the purchaser obtained physical possession of the dog after the sale by a breeder.

25989.535. (a) There shall be a rebuttable presumption that an illness existed at the time of sale if the animal dies within 15 days of delivery to the purchaser.

(b) For purposes of Section 25989.530, a finding by a veterinarian of intestinal or external parasites shall not be grounds for declaring a dog unfit for sale unless their presence makes the dog clinically ill or is likely to make the dog clinically ill.

(c) For purposes of Section 25989.530, the value of veterinary services shall be deemed reasonable if the services rendered are appropriate for the diagnosis and treatment of illness or congenital or hereditary condition made by the veterinarian and the value of the services is comparable to the value of similar services rendered by other licensed veterinarians in proximity to the treating veterinarian.

25989.540. To obtain the remedies provided for in Section 25989.530, the purchaser shall substantially comply with all of the following requirements:

(a) Notify the breeder as soon as possible but no later than five days of the diagnosis by a veterinarian licensed in this state of a medical or health problem, including a congenital or hereditary condition and of the name and telephone number of the veterinarian providing the diagnosis.

(b) Return the dog to the breeder, in the case of illness or congenital or hereditary condition, along with a written statement from a veterinarian licensed in this state, stating the dog to be unfit for purchase due to illness, a congenital or hereditary condition, or the presence of symptoms of a contagious or infectious disease, which

existed on or before delivery of the dog to the purchaser, and which adversely affects the health of the dog. The purchaser shall return the dog along with a copy of the veterinarian's statement as soon as possible but no later than five days of receipt of the veterinarian's statement.

(c) Provide the breeder, in the event of death, with a written statement from a veterinarian licensed in this state stating that the dog died from an illness which existed on or before the delivery of the dog to the purchaser. The presentation of the statement shall be sufficient proof to claim reimbursement or replacement and the return of the deceased dog to the breeder shall not be required.

25989.545. No refund, replacement, or reimbursement of veterinary fees shall be made under Section 25989.530 if any of the following conditions exist:

(a) The illness, condition, or death resulted from maltreatment or neglect or from an injury sustained or an illness or condition contracted subsequent to the delivery of the dog to the purchaser.

(b) The purchaser fails to carry out the recommended treatment prescribed by the examining veterinarian who made the initial diagnosis. However, this subdivision shall not apply if the cost for the treatment together with the veterinarian's fee for the diagnosis would exceed the purchase price of the dog, plus sales tax.

(c) A veterinarian's statement was provided to the purchaser pursuant to subparagraph (B) of paragraph (6) of subdivision (a) of Section 25989.505 which disclosed the disease, illness, or condition for which the purchaser seeks to return the dog. However, this subdivision shall not apply if, within one year after the purchaser took physical possession of the dog, a veterinarian licensed in this state states in writing that the disease, illness, or condition requires, or is likely in the future to require, hospitalization or nonelective surgical procedures or that the disease, illness, or condition resulted in the death of the dog.

(d) The purchaser refuses to return to the breeder all documents previously provided to the purchaser for the purpose of registering the dog. This subdivision shall not apply if the purchaser signs a statement certifying that the documents have been inadvertently lost or destroyed.

25989.550. (a) The veterinarian's statement pursuant to Section 25989.530 shall contain all of the following information:

(1) The purchaser's name and address.

(2) The date or dates the dog was examined.

(3) The breed and age of the dog, if known.

(4) That the veterinarian examined the dog.

(5) That the dog has or had disease, illness, or a hereditary or congenital condition, as described in Section 25989.505 which renders it unfit for purchase or resulted in its death.

(6) The precise findings of the examination or necropsy, including laboratory results or copies of laboratory reports.

(b) If a refund for reasonable veterinary expenses is being

requested, the veterinarian's statement shall be accompanied by an itemized bill of fees appropriate for the diagnosis and treatment of the illness or congenital or hereditary condition.

(c) Refunds and payment of reimbursable expenses provided for in Section 25989.530 shall be paid, unless contested, by the breeder to the purchaser not later than 10 business days following receipt of the veterinarian's statement required by Section 25989.530 or, where applicable, not later than 10 business days after the date on which the dog is returned to the breeder.

25989.555. (a) In the event that a breeder wishes to contest a demand for any of the remedies specified in Section 25989.530, the breeder may, except in the case of the death of the dog, require the purchaser to produce the dog for examination by a licensed veterinarian designated by the breeder. The breeder shall pay the cost of this examination.

(b) If the purchaser and the breeder are unable to reach an agreement within 10 business days following receipt by the breeder of the veterinarian's statement pursuant to Section 25989.530, or following receipt of the dog for examination by a veterinarian designated by the breeder, whichever is later, the purchaser may initiate an action in a court of competent jurisdiction to resolve the dispute or the parties may submit to binding arbitration if mutually agreed upon by the parties in writing.

(c) The prevailing party in the dispute shall have the right to collect reasonable attorney's fees if the other party acted in bad faith in seeking or denying the requested remedy.

25989.560. Every breeder that sells a dog shall provide the purchaser at the time of sale, and a prospective purchaser upon request, with a written notice of rights, setting forth the rights provided for under this section. The notice shall be contained in a separate document. The written notice of rights shall be in 10-point type. A copy of the written notice of rights shall be signed by the purchaser acknowledging that he or she has reviewed the notice. The notice shall state the following:

"A STATEMENT OF CALIFORNIA LAW GOVERNING THE SALE OF DOGS

The sale of dogs is subject to consumer protection regulation. In the event that a California licensed veterinarian states in writing that your dog is unfit for purchase because it became ill due to an illness or disease which existed within 15 days following delivery to you, or within one year in the case of congenital or hereditary condition, you may choose one of the following:

(1) Return your dog and receive a refund of the purchase price, plus sales tax, and receive reimbursement for reasonable veterinarian fees up to the cost of the dog, plus sales tax.

(2) Return your dog and receive a dog of your choice of equivalent value, providing a replacement dog is available, and

receive reimbursement for reasonable veterinarian fees up to the cost of the dog, plus sales tax.

(3) Keep the dog and receive reimbursement for reasonable veterinarian fees up to 150 percent of the original purchase price of the dog plus sales tax on the original purchase price of the dog.

In the event your dog dies, you may receive a refund for the purchase price of the dog, plus sales tax, or a replacement dog of your choice, of equivalent value, and reimbursement for reasonable veterinary fees for the diagnosis and treatment of the dog, if a veterinarian, licensed in this state, states in writing that the dog has died due to an illness or disease which existed within 15 days after the purchaser obtained physical possession of the dog after the sale by a dog breeder, or states that the dog has died due to a congenital or hereditary condition which was diagnosed by the veterinarian within one year after the purchaser obtained physical possession of the dog after the sale by a dog breeder. These fees may not exceed the purchase price of the dog, plus sales tax.

In order to exercise these rights, you must notify the dog breeder as quickly as possible but no later than five days after learning from your veterinarian that a problem exists. You must tell the dog breeder about the problem and give the dog breeder the name and telephone number of the veterinarian providing the diagnosis.

If you are making a claim, you must also present to the dog breeder a written veterinary statement, in a form prescribed by law, that the animal is unfit for purchase and an itemized statement of all veterinary fees related to the claim. This information must be presented to the dog breeder no later than five days after you have received the written statement from the veterinarian.

In the event that the dog breeder wishes to contest the statement or the veterinarian's bill, the dog breeder may request that you produce the dog for examination by a licensed veterinarian of the dog breeder's choice. The dog breeder shall pay the cost of this examination.

In the event of death, the deceased dog need not be returned to the dog breeder if you submit a statement issued by a licensed veterinarian stating the cause of death.

If the parties cannot resolve the claim within 10 business days following receipt of the veterinarian statement or the examination by the dog breeder's veterinarian, whichever event occurs later, you may file an action in a court of competent jurisdiction to resolve the dispute. If a party acts in bad faith, the other party may collect reasonable attorney's fees. If the dog breeder does not contest the matter, the dog breeder must make the refund or reimbursement no later than 10 business days after receiving the veterinary certification.

This statement is a summary of key provisions of the consumer remedies available. California law also provides safeguards to protect dog breeders from abuse. If you have questions, obtain a copy of the complete relevant statutes.

This notice shall be contained in a separate document. The written notice shall be in 10-point type. The notice shall be signed by the purchaser acknowledging that he or she has reviewed the notice. The dog breeder shall permit persons to review the written notice upon request.

NOTE: This disclosure of rights is a summary of California law. The actual statutes are contained in Chapter 13.7 (commencing with Section 25989.500) of Division 20 of the Health and Safety Code."

25989.565. Nothing in this chapter shall in any way limit the rights or remedies which are otherwise available to a consumer under any other law. Nor shall this chapter in any way limit the breeder and the purchaser from agreeing between themselves upon additional terms and conditions that are not inconsistent with this chapter. However, any agreement or contract by a purchaser to waive any rights under this chapter shall be null and void and shall be unenforceable.

25989.570. (a) Except as otherwise specified herein, any person violating any provision of this chapter other than Section 25989.520 shall be subject to civil penalty of up to one thousand dollars ($1,000) per violation. An action may be prosecuted in the name of the people of the State of California by the district attorney for the county in which the violation occurred in the appropriate court or by the city attorney in the city in which the violation occurred.

(b) Nothing in this chapter limits or authorizes any act or omission which violates Section 597*l* of the Penal Code.

SEC. 2. Section 25995 of the Health and Safety Code is amended to read:

25995. (a) This chapter shall be known and may be cited as the Lockyer-Polanco-Farr Pet Protection Act.

(b) Every pet dealer of dogs and cats shall conform to the provisions of this chapter. As used in this chapter, "pet dealer" means a person engaging in the business of selling dogs or cats, or both, at retail, and by virtue of such sales of dogs and cats is required to possess a permit pursuant to Section 6066 of the Revenue and Taxation Code. For purposes of this chapter, the separate sales of dogs or cats from a single litter shall constitute only one sale under Section 6019 of the Revenue and Taxation Code. This definition does not apply to breeders of dogs regulated pursuant to Chapter 13.7 (commencing with Section 25989.500) nor to any person, firm, partnership, corporation, or other association, that breeds or rears dogs on the premises of the person, firm, partnership, corporation, or other association, that has sold, transferred, or given away fewer than 50 dogs in the preceding year.

(c) For purposes of this chapter, "purchaser" means a person who purchases a dog or cat from a pet dealer without the intent to resell the animal.

(d) This chapter shall not apply to publicly operated pounds and humane societies.

SEC. 3. Section 25995.1 of the Health and Safety Code is amended to read:

25995.1. Every pet dealer receiving dogs or cats from a common carrier shall transport, or have transported, dogs and cats from the carrier's premises within four hours after receipt of telephone notification by the carrier of the completion of shipment and arrival of the animal at the carrier's point of destination.

SEC. 4. Section 25995.3 of the Health and Safety Code, as amended by Chapter 58 of the Statutes of 1991, is amended to read:

25995.3. Every pet dealer shall deliver to the purchaser of each dog and cat at the time of sale a written statement in a standardized form prescribed by the Department of Consumer Affairs containing the following information:

(a) For cats:

(1) The breeder's and broker's name and address, if known, or if not known, the source of the cat. If the person from whom the cat was obtained is a dealer licensed by the United States Department of Agriculture, the person's name, address, and federal dealer identification number.

(2) The date of the cat's birth, unless unknown because of the source of such cat and the date the dealer received the cat.

(3) A record of the immunizations and worming treatments administered, if any, to the cat as of the time of sale, including the dates of administration and the type of vaccine or worming treatment.

(4) A record of any known disease or sickness that the cat is afflicted with at the time of sale. In addition, this information shall also be orally disclosed to the purchaser.

(b) For dogs:

(1) The breeder's name and address, if known, or if not known, the source of the dog. If the person from whom the dog was obtained is a dealer licensed by the United States Department of Agriculture, the person's name, address, and federal dealer identification number.

(2) The date of the dog's birth, and the date the dealer received the dog. If the dog is not advertised or sold as purebred, registered, or registerable, the date of birth may be approximated if not known by the seller.

(3) The breed, sex, color, and identifying marks at the time of sale, if any. If the dog is from a United States Department of Agriculture licensed source, the individual identifying tag, tattoo, or collar number for that animal. If the breed is unknown or mixed, the record shall so indicate.

(4) If the dog is being sold as being capable of registration, the names and registration numbers of the sire and dam, and the litter number, if known.

(5) A record of inoculations and worming treatments administered, if any, to the dog as of the time of sale, including dates of administration and the type of vaccine or worming treatment.

(6) A record of any veterinarian treatment or medication received by the dog while in the possession of the pet dealer and

either of the following:

(A) A statement, signed by the pet dealer at the time of sale, containing all of the following:

(i) The dog has no known disease or illness.

(ii) The dog has no known congenital or hereditary condition that adversely affects the health of the dog at the time of the sale or that is likely to adversely affect the health of the dog in the future.

(B) A record of any known disease, illness, and any congenital or hereditary condition which adversely affects the health of the dog at the time of sale, or is likely to adversely affect the health of the dog in the future, along with a statement signed by a veterinarian licensed in the State of California which authorizes the sale of the dog, recommends necessary treatment, if any, and verifies that the disease, illness, or condition does not require hospitalization or nonelective surgical procedures, nor is it likely to require hospitalization or nonelective surgical procedures in the future. A veterinarian statement is not required for intestinal or external parasites unless their presence makes the dog clinically ill or is likely to make the dog clinically ill. The statement shall be valid for seven days following examination of the dog by the veterinarian.

(c) For the purpose of this chapter, "nonelective surgical procedure" means a surgical procedure that is necessary to preserve or restore the health of the dog, to prevent the dog from experiencing pain or discomfort, or to correct a condition that would interfere with the dog's ability to walk, run, jump, or otherwise function in a normal manner.

(d) For the purposes of this chapter, "clinically ill" means an illness which is apparent to a veterinarian based on observation, examination, or testing of the dog, or upon a review of the medical records relating to the dog.

(e) A disclosure made pursuant to subdivision (b) shall be signed by both the pet dealer certifying the accuracy of the statement, and the purchaser of the dog acknowledging receipt of the statement. In addition, all medical information required to be disclosed pursuant to subdivision (b) shall be made orally to the purchaser.

(f) For purposes of chapter, a disease, illness, or congenital or hereditary condition which adversely affects the health of a dog at the time of sale or is likely to adversely affect the health of the dog in the future shall be one which is apparent at the time of sale or which should have been known by the pet dealer from the history of veterinary treatment disclosed pursuant to this section.

SEC. 5. Section 25995.4 of the Health and Safety Code is amended to read:

25995.4. A pet dealer shall maintain a written record on the health, status, and disposition of each dog and each cat for a period of not less than one year after disposition of the dog or cat. The record shall also contain all of the information required to be disclosed pursuant to Sections 25995.3 and 25996.91. Those records shall be available to humane officers, animal control officers, and law

enforcement officers for inspection during normal business hours.

SEC. 6. Section 25995.5 of the Health and Safety Code is amended to read:

25995.5. (a) Except as otherwise specified herein, any person violating any provision of this chapter other than Section 25995.8 shall be subject to a civil penalty of up to one thousand dollars ($1,000) per violation. The action may be prosecuted in the name of the people of the State of California by the district attorney for the county in which the violation occurred in the appropriate court or by the city attorney in the city in which the violation occurred.

(b) Nothing in this chapter limits or authorizes any act or omission which violates Section 597*l* of the Penal Code.

SEC. 7. Section 25995.60 is added to the Health and Safety Code, immediately following Section 25995.5, to read:

25995.60. (a) It shall be unlawful for a pet dealer to fail to do any of the following:

(1) Maintain facilities in which the dogs are kept in a sanitary condition.

(2) Provide dogs with adequate nutrition and potable water.

(3) Provide adequate space appropriate to the age, size, weight, and breed of dog. Adequate space means sufficient space for the dog to stand up, sit down, and turn about freely using normal body movements, without the head touching the top of the cage, and to lie in a natural position.

(4) Provide dogs housed on wire flooring with a rest board, floormat, or similar device that can be maintained in a sanitary condition.

(5) Provide dogs with adequate socialization and exercise. For the purpose of this chapter "socialization" means physical contact with other dogs or with human beings.

(6) Wash hands before and after handling each infectious or contagious dog.

(7) Maintain either of the following:

(A) A fire alarm system that is connected to a central reporting station which alerts the local fire department in case of fire.

(B) Maintain a fire suppression sprinkler system.

(8) Provide veterinary care without delay when necessary.

(b) A pet dealer shall not be in possession of a dog which is less than eight weeks old.

SEC. 8. Section 25995.70 is added to the Health and Safety Code, immediately following Section 25995.60, to read:

25995.70. (a) If a licensed veterinarian states in writing that within 15 days after the purchaser has taken physical possession of the dog after the sale by a pet dealer, the dog has become ill due to any illness which existed in the dog on or before delivery of the dog to the purchaser, or, if within one year after the purchaser has taken physical possession of the dog after the sale, a veterinarian licensed in this state states in writing that the dog has a congenital or hereditary condition which adversely affects the health of the dog,

or which requires, or is likely in the future to require, hospitalization or nonelective surgical procedures, the dog shall be considered unfit for sale, and the pet dealer shall provide the purchaser with any of the following remedies which the purchaser elects:

(1) Return the dog to the pet dealer for a refund of the purchase price, plus sales tax, and reimbursement for reasonable veterinary fees for diagnosis and treating the dog in an amount not to exceed the original purchase price of the dog, plus sales tax.

(2) Exchange the dog for a dog of the purchaser's choice of equivalent value, providing a replacement dog is available, and reimbursement for reasonable veterinary fees for diagnosis and treating the dog in an amount not to exceed the original purchase price of the dog, plus sales tax.

(3) Retain the dog, and reimbursement for reasonable veterinary fees for diagnosis and treating the dog in an amount not to exceed 150 percent of the original purchase price of the dog, plus sales tax on the original purchase price of the dog.

(b) If the dog has died, regardless of the date of the death of the dog, obtain a refund for the purchase price of the dog, plus sales tax, or a replacement dog of equivalent value of the purchaser's choice and reimbursement for reasonable veterinary fees in diagnosis and treatment of the dog in an amount not to exceed the original purchase price of the dog, plus sales tax, if either of the following conditions exist:

(1) A veterinarian, licensed in this state, states in writing that the dog has died due to an illness or disease which existed within 15 days after the purchaser obtained physical possession of the dog after the sale by a pet dealer.

(2) A veterinarian, licensed in this state, states in writing that the dog has died due to a congenital or hereditary condition which was diagnosed by the veterinarian within one year after the purchaser obtained physical possession of the dog after the sale by a pet dealer.

SEC. 9. Section 25995.71 is added to the Health and Safety Code, to read:

25995.71. (a) There shall be a rebuttable presumption that an illness existed at the time of sale if the animal dies within 15 days of delivery to the purchaser.

(b) For purposes of Section 25995.70, a finding by a veterinarian of intestinal or external parasites shall not be grounds for declaring a dog unfit for sale unless their presence makes the dog clinically ill or is likely to make the dog clinically ill.

(c) For purposes of Section 25995.70, the value of veterinary services shall be deemed reasonable if the services rendered are appropriate for the diagnosis and treatment of illness or congenital or hereditary condition, made by the veterinarian and the value of similar services is comparable to the value of similar services rendered by other licensed veterinarians in proximity to the treating veterinarian.

SEC. 10. Section 25995.72 is added to the Health and Safety Code,

to read:

25995.72. To obtain the remedies provided for in Section 25995.70, the purchaser shall substantially comply with all of the following requirements:

(a) Notify the pet dealer as soon as possible but not more than five days after the diagnosis by a veterinarian licensed in this state of a medical or health problem, including a congenital or hereditary condition and of the name and telephone number of the veterinarian providing the diagnosis.

(b) Return the dog to the pet dealer, in the case of illness, along with a written statement from a veterinarian licensed in this state, stating the dog to be unfit for purchase due to illness, a congenital or hereditary condition, or the presence of symptoms of a contagious or infectious disease, which existed on or before delivery of the dog to the purchaser, and which adversely affects the health of the dog. The purchaser shall return the dog along with a copy of the veterinarian's statement as soon as possible but not more than five days after receipt of the veterinarian's statement.

(c) Provide the pet dealer, in the event of death, with a written statement from a veterinarian licensed in this state stating that the dog died from an illness which existed on or before the delivery of the dog to the purchaser. The presentation of the statement shall be sufficient proof to claim reimbursement or replacement and the return of the deceased dog to the pet dealer shall not be required.

SEC. 11. Section 25995.73 is added to the Health and Safety Code, to read:

25995.73. Notwithstanding the provisions of Section 25995.70, no refund, replacement, or reimbursement of veterinary fees shall be made if any of the following conditions exist:

(a) The illness or death resulted from maltreatment or neglect or from an injury sustained or an illness contracted subsequent to the delivery of the dog to the purchaser.

(b) The purchaser fails to carry out the recommended treatment prescribed by the examining veterinarian who made the initial diagnosis. However, this subdivision shall not apply if the cost for the treatment together with the veterinarian's fee for the diagnosis would exceed the purchase price of the dog, including sales tax.

(c) A veterinarian's statement was provided to the purchaser pursuant to subparagraph (B) of paragraph (6) of subdivision (b) of Section 25995.3 which disclosed the disease, illness, or condition for which the purchaser seeks to return the dog. However, this paragraph shall not apply if, within one year after the purchaser took physical possession of the dog, a veterinarian licensed in this state states in writing that the disease, illness, or condition requires, or is likely in the future to require, hospitalization or nonelective surgical procedures or that the disease, illness, or condition resulted in the death of the dog.

(d) The purchaser refuses to return to the pet dealer all documents previously provided to the purchaser for the purpose of

registering the dog. This subdivision shall not apply if the purchaser signs a written statement certifying that the documents have been inadvertently lost or destroyed.

SEC. 12. Section 25995.74 is added to the Health and Safety Code, to read:

25995.74. (a) The veterinarian's statement pursuant to Section 25995.70 shall contain the following information:

(1) The purchaser's name and address.

(2) The date or dates the dog was examined.

(3) The breed and age of the dog, if known.

(4) That the veterinarian examined the dog.

(5) That the dog has or had an illness described in this section which renders it unfit for purchase or resulted in its death.

(6) The precise findings of the examination or necropsy, including laboratory results or copies of laboratory reports.

(b) If a refund for reasonable veterinary expenses is being requested, the veterinary statement shall be accompanied by an itemized bill of fees appropriate for the diagnosis and treatment of the illness or congenital or hereditary condition.

(c) Refunds and payment of reimbursable expenses provided for by Section 25995.70 shall be paid, unless contested, by the pet dealer to the purchaser not later than 10 business days following receipt of the veterinarian's statement required by Section 25995.70 or, where applicable, not later than 10 business days after the date on which the dog is returned to the pet dealer.

SEC. 13. Section 25995.75 is added to the Health and Safety Code, to read:

25995.75. (a) In the event that a pet dealer wishes to contest a demand for any of the remedies specified in Section 25995.70, the dealer may, except in the case of the death of the dog, require the purchaser to produce the dog for examination by a licensed veterinarian designated by the pet dealer. The pet dealer shall pay the cost of this examination.

(b) If the purchaser and the pet dealer are unable to reach an agreement within 10 business days following receipt by the pet dealer of the veterinarian's statement pursuant to Section 25995.70, or following receipt of the dog for examination by a veterinarian designated by the pet dealer, whichever is later, the purchaser may initiate an action in a court of competent jurisdiction to resolve the dispute or the parties may submit to binding arbitration if mutually agreed upon by the parties in writing.

(c) The prevailing party in the dispute shall have the right to collect reasonable attorney's fees if the other party acted in bad faith in seeking or denying the requested remedy.

SEC. 14. Section 25995.76 is added to the Health and Safety Code, to read:

25995.76. Every pet dealer that sells a dog shall provide the purchaser at the time of sale, and a prospective purchaser upon request, with a written notice of rights, setting forth the rights

provided for under this section. The notice shall be contained in a separate document. The written notice of rights shall be in 10-point type. A copy of the written notice of rights shall be signed by the purchaser acknowledging that he or she has reviewed the notice. The notice shall state the following:

"A STATEMENT OF CALIFORNIA LAW GOVERNING THE SALE OF DOGS

The sale of dogs is subject to consumer protection regulations. In the event that a California licensed veterinarian states in writing that your dog is unfit for purchase because it became ill due to an illness or disease which existed within 15 days following delivery to you, or within one year in the case of congenital or hereditary condition, you may choose one of the following:

(1) Return your dog and receive a refund of the purchase price, plus sales tax, and receive reimbursement for reasonable veterinarian fees up to the cost of the dog plus sales tax.

(2) Return your dog and receive a dog of your choice of equivalent value, providing a replacement dog is available, and receive reimbursement for reasonable veterinarian fees up to the cost of the dog, plus sales tax.

(3) Keep the dog and receive reimbursement for reasonable veterinarian fees up to 150 percent of the original purchase price of the dog plus sales tax on the original purchase price of the dog.

In the event your dog dies, you may receive a refund for the purchase price of the dog, plus sales tax, or a replacement dog of your choice, of equivalent value, and reimbursement for reasonable veterinary fees for the diagnosis and treatment of the dog, if a veterinarian, licensed in this state, states in writing that the dog has died due to an illness or disease which existed within 15 days after the purchaser obtained physical possession of the dog after the sale by a pet dealer, or states that the dog has died due to a congenital or hereditary condition which was diagnosed by the veterinarian within one year after the purchaser obtained physical possession of the dog after the sale by a pet dealer. These fees may not exceed the purchase price of the dog, plus sales tax.

In order to exercise these rights, you must notify the pet dealer as quickly as possible but no later than five days after learning from your veterinarian that a problem exists. You must tell the pet dealer about the problem and give the pet dealer the name and telephone number of the veterinarian providing the diagnosis.

If you are making a claim, you must also present to the pet dealer a written veterinary statement, in a form prescribed by law, that the animal is unfit for purchase and an itemized statement of all veterinary fees related to the claim. This information must be presented to the pet dealer no later than five days after you have received the written statement from the veterinarian.

In the event that the pet dealer wishes to contest the statement or

the veterinarian's bill, the pet dealer may request that you produce the dog for examination by a licensed veterinarian of the pet dealer's choice. The pet dealer shall pay the cost of this examination.

In the event of death, the deceased dog need not be returned to the pet dealer if you submit a statement issued by a licensed veterinarian stating the cause of death.

If the parties cannot resolve the claim within 10 business days following receipt of the veterinarian statement or the examination by the pet dealer's veterinarian, whichever event occurs later, you may file an action in a court of competent jurisdiction to resolve the dispute. If a party acts in bad faith, the other party may collect reasonable attorney's fees. If the pet dealer does not contest the matter, the pet dealer must make the refund or reimbursement no later than 10 business days after receiving the veterinary certification.

If the pet dealer has represented your dog as registerable with a pedigree organization, the pet dealer shall provide you with the necessary papers to process the registration within 120 days following the date you received the dog. If the pet dealer fails to deliver the papers within the prescribed timeframe, you are entitled to return the dog for a full refund of the purchase price, including sales tax, or a refund of 75 percent of the purchase price, including sales tax if you choose to keep the dog.

This statement is a summary of key provisions of the consumer remedies available. California law also provides safeguards to protect pet dealers from abuse. If you have any questions, obtain a copy of the complete relevant statutes.

This notice shall be contained in a separate document. The written notice shall be in 10-point type. The notice shall be signed by the purchaser acknowledging that he or she has reviewed the notice. The pet dealer shall permit persons to review the written notice upon request.

NOTE: This disclosure of rights is a summary of California law. The actual statutes are contained in Chapter 14.5 (commencing with Section 25995) of Division 20 of the Health and Safety Code."

SEC. 15. Section 25995.77 is added to the Health and Safety Code, to read:

25995.77. Nothing in this chapter shall in any way limit the rights or remedies which are otherwise available to a consumer under any other law. Nor shall this chapter in any way limit the pet dealer and the purchaser from agreeing between themselves upon additional terms and conditions that are not inconsistent with this chapter. However, any agreement or contract by a purchaser to waive any rights under this chapter shall be null and void and shall be unenforceable.

SEC. 16. Section 25995.78 is added to the Health and Safety Code, to read:

25995.78. (a) A pet dealer shall not state, promise, or represent to the purchaser, directly or indirectly, that a dog is registered or

capable of being registered with an animal pedigree registry organization, unless the pet dealer provides the purchaser with the documents necessary for that registration within 120 days following the date of sale of the dog.

(b) In the event that a pet dealer fails to provide the documents necessary for registration within 120 days following the date of sale, in violation of subdivision (a), the purchaser shall, upon written notice to the pet dealer, be entitled to retain the animal and receive a partial refund of 75 percent of the purchase price, plus sales tax, or return the dog along with all documentation previously provided the purchaser for a full refund, including sales tax.

SEC. 17. Section 25995.8 of the Health and Safety Code is amended to read:

25995.8. Except as provided for in subparagraph (B) of paragraph (6) of subdivision (b) of Section 25995.3, no pet dealer shall knowingly sell a dog which is diseased, ill, or has a condition, any one of which requires hospitalization or surgical procedures. In lieu of the civil penalties imposed pursuant to Section 25995.5, any pet dealer who violates this section shall be subject to a civil penalty of up to one thousand dollars ($1,000), or shall be prohibited from selling dogs at retail for up to 30 days, or both. If there is a second offense, the pet dealer shall be subject to a civil penalty of up to two thousand five hundred dollars ($2,500), or a prohibition from selling dogs at retail for up to 90 days, or both. For a third offense, the pet dealer shall be subject to a civil penalty of up to five thousand dollars ($5,000) or a prohibition from selling dogs at retail for up to six months, or both. For a fourth and subsequent offense, the pet dealer shall be subject to a civil penalty of up to ten thousand dollars ($10,000) or a prohibition from selling dogs at retail for up to one year, or both. For purposes of this section, a violation which occurred over five years prior to the most recent violation shall not be considered.

An action for recovery of the civil penalty and for a court order enjoining the pet dealer from engaging in the business of selling dogs at retail for the period set forth in this section, may be prosecuted by the district attorney for the county in which the violation occurred, or the city attorney for the city in which the violation occurred, in the appropriate court.

SEC. 18. Section 25996.10 is added to the Health and Safety Code, to read:

25996.10. (a) No dog may be offered for sale by a pet dealer to a purchaser until the dog has been examined by a veterinarian licensed in this state. Each dog shall be examined within five days of receipt of the dog and once every 15 days thereafter while the dog is in the possession or custody of the pet dealer. The pet dealer shall provide any sick dog with proper veterinary care without delay.

(b) Any dog diagnosed with a contagious or infectious disease, illness, or condition shall be caged separately from healthy dogs until a licensed veterinarian determines that the dog is free from

contagion or infection. The area shall meet the following conditions when contagious or infectious dogs are present:

(1) The area shall not be used to house other healthy dogs or new arrivals awaiting the required veterinary examination.

(2) The area shall not be used for storing open food containers or bowls, dishes, or other utensils which come in contact with healthy dogs.

(3) The area shall have an exhaust fan which creates air movement from the isolation area to an area outside the premises of the pet dealer. The removal of exhaust air from the isolation area may be accomplished by the use of existing heating and air-conditioning ducts, provided no exhaust air is permitted to enter or mix with fresh air for use by the general animal population.

(4) Upon removal of all of the contagious or infectious dogs, the area shall be cleaned and disinfected before any healthy animal can be placed in the area.

(c) If the pet dealer's veterinarian deems the dog to be unfit for purchase due to a disease, illness, or congenital condition, any of which is fatal or which causes, or is likely to cause, the dog to unduly suffer, the veterinarian shall humanely euthanize the dog. The veterinarian shall provide the pet dealer with a written statement as to why the dog was euthanized. Otherwise, the pet dealer shall have a veterinarian treat the dog, or may surrender the dog to a humane organization which consents to the receipt thereof.

(d) In the event a dog is returned to a pet dealer due to illness, disease, or a congenital or hereditary condition requiring veterinary care, the pet dealer shall provide the dog with proper veterinary care.

SEC. 19. Section 25996.91 of the Health and Safety Code is amended to read:

25996.91. (a) Every pet dealer shall post conspicuously within close proximity to the cages of dogs offered for sale, a notice containing the following language in 100-point type:

"Information on the source of these dogs, and veterinary treatments received by these dogs is available for review."

"You are entitled to a copy of a statement of consumer rights."

(b) Every pet dealer shall, upon request for information regarding a dog, make immediately available to prospective purchasers all of the information required to be disclosed to purchasers pursuant to subdivision (b) of Section 25995.3 and pursuant to Section 25995.76.

SEC. 20. This act applies to sales of dogs which occur on or after January 1, 1992.

CHAPTER 1100

An act to amend Sections 830.55, 831, 831.5, 2910.5, 6031.5, 6035, and 6242 of the Penal Code, relating to correctional facilities.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 830.55 of the Penal Code is amended to read:

830.55. (a) As used in this section, a correctional officer is a peace officer, employed by a city, county, or city and county which operates a facility described in Section 2910.5 of this code or Section 1753.3 of the Welfare and Institutions Code or facilities operated by counties pursuant to Section 6241 or 6242 of this code under contract with the Department of Corrections or the Department of the Youth Authority, who has the authority and responsibility for maintaining custody of specified state prison inmates or wards, and who performs tasks related to the operation of a detention facility used for the detention of persons who have violated parole or are awaiting parole back into the community or, upon court order, either for their own safekeeping or for the specific purpose of serving a sentence therein.

(b) A correctional officer shall have no right to carry or possess firearms in the performance of his or her prescribed duties, except, under the direction of the superintendent of the facility, while engaged in transporting prisoners, guarding hospitalized prisoners, or suppressing riots, lynchings, escapes, or rescues in or about a detention facility established pursuant to Section 2910.5 of this code or Section 1753.3 of the Welfare and Institutions Code.

(c) Each person described in this section as a correctional officer, within 90 days following the date of the initial assignment to that position, shall satisfactorily complete the training course specified in Section 832. In addition, each person designated as a correctional officer, within one year following the date of the initial assignment as an officer, shall have satisfactorily met the minimum selection and training standards prescribed by the Board of Corrections pursuant to Section 6035. Persons designated as correctional officers, before the expiration of the 90-day and one-year periods described in this subdivision, who have not yet completed the required training, may perform the duties of a correctional officer only while under the direct supervision of a correctional officer who has completed the training required in this section, and shall not carry or possess firearms in the performance of their prescribed duties.

(d) This section shall not be construed to confer any authority upon a correctional officer except while on duty.

(e) A correctional officer may use reasonable force in establishing and maintaining custody of persons delivered to him or her by a law

enforcement officer, may make arrests for misdemeanors and felonies within the local detention facility pursuant to a duly issued warrant, and may make warrantless arrests pursuant to Section 836.5 only during the duration of his or her job.

SEC. 2. Section 831 of the Penal Code is amended to read:

831. (a) A custodial officer is a public officer, not a peace officer, employed by a law enforcement agency of a city or county who has the authority and responsibility for maintaining custody of prisoners and performs tasks related to the operation of a local detention facility used for the detention of persons usually pending arraignment or upon court order either for their own safekeeping or for the specific purpose of serving a sentence therein.

(b) A custodial officer shall have no right to carry or possess firearms in the performance of his or her prescribed duties.

(c) Each person described in this section as a custodial officer shall, within 90 days following the date of the initial assignment to the position, satisfactorily complete the training course specified in Section 832. In addition, each person designated as a custodial officer shall, within one year following the date of the initial assignment as a custodial officer, have satisfactorily met the minimum selection and training standards prescribed by the Board of Corrections pursuant to Section 6035. Persons designated as custodial officers, before the expiration of the 90-day and one-year periods described in this subdivision, who have not yet completed the required training, may perform the duties of a custodial officer only while under the direct supervision of a peace officer as described in Section 830.1, who has completed the training prescribed by the Commission on Peace Officer Standards and Training, or a custodial officer who has completed the training required in this section.

(d) At any time 20 or more custodial officers are on duty, there shall be at least one peace officer, as described in Section 830.1, on duty at the same time to supervise the performance of the custodial officers.

(e) This section shall not be construed to confer any authority upon any custodial officer except while on duty.

(f) A custodial officer may use reasonable force in establishing and maintaining custody of persons delivered to him or her by a law enforcement officer; may make arrests for misdemeanors and felonies within the local detention facility pursuant to a duly issued warrant; may release without further criminal process persons arrested for intoxication; and may release misdemeanants on citation to appear in lieu of or after booking.

SEC. 3. Section 831.5 of the Penal Code is amended to read:

831.5. (a) As used in this section, a custodial officer is a public officer, not a peace officer, employed by a law enforcement agency of San Diego County, Fresno County, or a county having a population of 425,000 or less who has the authority and responsibility for maintaining custody of prisoners and performs tasks related to the operation of a local detention facility used for the detention of

persons usually pending arraignment or upon court order either for their own safekeeping or for the specific purpose of serving a sentence therein. A custodial officer includes a person designated as a correctional officer, jailer, or other similar title. The duties of custodial officer may include the serving of warrants, court orders, writs and subpoenas in the detention facility or under circumstances arising directly out of maintaining custody of prisoners and related tasks.

(b) A custodial officer shall have no right to carry or possess firearms in the performance of his or her prescribed duties, except, under the direction of the sheriff or chief of police, while engaged in transporting prisoners; guarding hospitalized prisoners; or suppressing jail riots, lynchings, escapes, or rescues in or about a detention facility falling under the care and custody of the sheriff or chief of police.

(c) Each person described in this section as a custodial officer shall, within 90 days following the date of the initial assignment to that position, satisfactorily complete the training course specified in Section 832. In addition, each person designated as a custodial officer shall, within one year following the date of the initial assignment as a custodial officer, have satisfactorily met the minimum selection and training standards prescribed by the Board of Corrections pursuant to Section 6035. Persons designated as custodial officers, before the expiration of the 90-day and one-year periods described in this subdivision, who have not yet completed the required training, shall not carry or possess firearms in the performance of their prescribed duties, but may perform the duties of a custodial officer only while under the direct supervision of a peace officer as described in Section 830.1, who has completed the training prescribed by the Commission on Peace Officer Standards and Training, or a custodial officer who has completed the training required in this section.

(d) At any time 20 or more custodial officers are on duty, there shall be at least one peace officer, as described in Section 830.1, on duty at the same time to supervise the performance of the custodial officers.

(e) This section shall not be construed to confer any authority upon any custodial officer except while on duty.

(f) A custodial officer may use reasonable force in establishing and maintaining custody of persons delivered to him or her by a law enforcement officer; may make arrests for misdemeanors and felonies within the local detention facility pursuant to a duly issued warrant; may make warrantless arrests pursuant to Section 836.5 only during the duration of his or her job; may release without further criminal process persons arrested for intoxication; and may release misdemeanants on citation to appear in lieu of or after booking.

SEC. 4. Section 2910.5 of the Penal Code is amended to read:

2910.5. (a) Pursuant to Section 2910, the Director of Corrections may enter into a long-term agreement not to exceed 20 years with a city, county, or city and county to place parole violators and other

state inmates in a facility which is specially designed and built for the incarceration of parole violators and specified state prison inmates.

(b) The agreement shall provide that persons providing security at the facilities shall be peace officers as defined in Sections 830.1 and 830.55 who have satisfactorily met the minimum selection and training standards prescribed by the Board of Corrections for local correctional personnel established under Section 6035.

(c) A parole violator or other inmate may be confined in a facility established under this section.

(1) If convicted within the last 10 years of a violent felony, as defined in subdivision (c) of Section 667.5, or convicted of a crime, as defined in Sections 207, 210.5, 214, 217.1, or 220, or if that person has a history of escape or attempted escape, the Department of Corrections, prior to placing the parole violator or inmate in the facility, shall review each individual case to make certain that this placement is in keeping with the need to protect society.

(2) No inmate or parole violator who has received a sentence of life imprisonment within the past 20 years shall be eligible.

(3) The superintendent of the facility also shall review each individual case where the inmate or parolee has been convicted within the last 10 years of a crime specified in this subdivision and shall ascertain whether this is an appropriate placement. The superintendent shall reject those whom he or she determines are inappropriate due to their propensity for violence or escape and shall submit written findings for the rejection to the Department of Corrections.

(4) No parole violator who receives a revocation sentence greater than 12 months shall be confined in a facility established under this section.

(5) The Department of Corrections shall establish additional guidelines as to inmates eligible for the facilities.

(d) In determining the reimbursement rate pursuant to an agreement entered into pursuant to subdivision (a), the director shall take into consideration the costs incurred by the city, county, or city and county for services and facilities provided and any other factors that are necessary and appropriate to fix the obligations, responsibilities, and rights of the respective parties.

(e) Facilities operated by the county shall be under the supervision of the sheriff. Facilities operated by the city shall be under the supervision of a chief of police or a facility superintendent who shall have at least five years similar experience.

(f) Cities or counties contracting with the Department of Corrections for a facility pursuant to this section shall be responsible for managing and maintaining the security of the facility pursuant to the regulations and direction of the Director of Corrections. No city or county may contract with any private provider to manage, operate, or maintain the security of the facility.

SEC. 5. Section 6031.5 of the Penal Code is amended to read:

6031.5. For the purposes of this chapter, the term "correctional

personnel" means either of the following:

(1) Any person described by subdivision (a) or (b) of Section 830.5, 830.55, 831, or 831.5.

(2) Any class of persons who perform supervision, custody, care, or treatment functions and are employed by the Department of Corrections, the Department of the Youth Authority, any correctional or detention facility, probation department, community-based correctional program, or other state or local public facility or program responsible for the custody, supervision, treatment, or rehabilitation of persons accused of, or adjudged responsible for, criminal or delinquent conduct.

SEC. 6. Section 6035 of the Penal Code is amended to read:

6035. (a) For the purpose of raising the level of competence of local corrections and probation officers and other correctional personnel, the board shall adopt, and may from time to time amend, rules establishing minimum standards for the selection and training of these personnel employed by any city, county, or city and county who provide for the custody, supervision, treatment, or rehabilitation of persons accused of, or adjudged responsible for, criminal or delinquent conduct who are currently under local jurisdiction. All of these rules shall be adopted and amended pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Any city, county, or city and county receiving state aid pursuant to Article 3 (commencing with Section 6040) shall adhere to the standards for selection and training established by the board. The board may defer the promulgation of selection standards until necessary research for job relatedness is completed. In such case, and until selection standards are adopted, a city, county, or city and county may receive state aid upon certification of willingness to adhere to the training standards pursuant to Section 6041.

(c) Minimum training standards may include, but are not limited to, basic, entry, continuation, supervisory, management, and specialized assignments.

(d) Selection and training standards shall apply to all local corrections and probation officers and other correctional personnel employed by jurisdictions receiving funds under Article 3 (commencing with Section 6040). Exemptions from this requirement for personnel hired prior to July 1, 1980, shall be determined by the board. For the purpose of the exemptions, the board may develop written or oral equivalency examinations, a certification process which recognizes standards equivalency through a combination of professional experience and training, or a combination of examination and certification.

SEC. 7. Section 6242 of the Penal Code is amended to read:

6242. (a) The county shall assume full responsibility to administer and operate the center and program consistent with the criteria set forth within this chapter and those established by the board. This shall include maintenance and compliance with all codes,

regulations, and health standards.

(b) The county shall select a local governmental department to operate the facility in accordance with the standards and oversight provided for in this chapter.

The facility shall be owned by the department for the duration of the payment of the bond used to finance construction of the facility. Upon completion of bond repayment, ownership of the facility shall be vested in the county. Ownership of a county facility renovated with funds awarded pursuant to this chapter shall be by the department for the period of bond repayment, after which ownership shall revert to the county. The department shall retain the option to lease from the county no less than 50 percent of inmate beds after completion of bond repayment.

If a county willfully terminates its participation in this act prior to completion of bond repayment or if its grant is terminated by the board for noncompliance with program regulations, ownership of the facility shall remain vested in the department. The department shall retain the option to lease as provided in this subdivision.

(c) Counties or the department shall operate all services and programs in secure facilities pursuant to this chapter with only county or state merit system employees, except that private nonprofit providers or individual professionals with demonstrated expertise and community experience may also be utilized to provide substance abuse treatment programs. Treatment programs outside secure facilities pursuant to this chapter may be provided only by county or state staff, by private nonprofit providers, or by individual professionals with demonstrated expertise and experience in providing services to this population of the community.

(d) Custody in secure facilities shall be provided by peace officers, as defined in Sections 830.1 and 830.55, or custodial officers, as defined in Section 831 and 831.5, who have satisfactorily met the minimum selection and training standards prescribed by the Board of Corrections for local corrections and probation officers and other correctional personnel established under Section 6035.

(e) Parolees, parole violators, and state prisoners shall remain under overall supervision of state parole officers.

(f) The department shall contract to reimburse the county for allotted bed space and programming for state offenders based on actual cost plus a reasonable fee, but in no instance shall that amount exceed the average cost of housing an inmate in a state prison facility, as determined annually by the director.

(g) A county may bill the state for services provided to state parolees pursuant to this chapter on a pro rata basis of the cost of providing the programs and services, if requested by the department.

(h) The department and the board, as well as participating counties, shall seek funding from the federal government and from private foundation sources to help meet the costs of the programs outlined in this chapter.

(i) It shall be the responsibility of the board, the department, and the design and implementation panel to keep abreast of improvements in programs of the types established by this chapter, and to attempt to revise and update programs as state-of-the-art advances develop.

(j) Requests for proposals shall be ready for submission to eligible counties within nine months after the effective date of this chapter. Eligible counties shall submit proposals within six months after the request for proposals is submitted.

(k) An amount totaling no more than 1½ percent of the total amount of funds to be disbursed under this chapter is hereby appropriated from the 1990 Prison Construction Fund and the 1990–B Prison Construction Fund to the board to be used for administrative costs.

(*l*) Following formal acceptance of proposals submitted by counties, the board shall have authority to modify, expand, or revise county programs, if requested by counties, or if the board concludes that changes should be made to improve, expand, or reduce the scope or approach of programs. This shall be done after formal notice to a county of proposed changes and opportunity for a county to submit evidence. The board also shall be able to recommend additional or reduced funding for a program, if funding becomes available upon appropriation by the Legislature.

CHAPTER 1101

An act to amend Sections 61411, 61411.2, 61415.2, 62191, 62193, 62201, and 62712 of the Food and Agricultural Code, relating to milk and dairy products.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 61411 of the Food and Agricultural Code is amended to read:

61411. Except as otherwise provided in Section 61411.2 or 61411.3, the purchase of any manufacturing milk in excess of 1,000 gallons monthly from any manufacturing milk producer without a written contract that has been executed and complies with all the requirements of this article is an unlawful practice. The contract shall include all of the following:

(a) The amount of manufacturing milk which is to be purchased for any period.

(b) The price to be paid for all manufacturing milk received.

(c) The date and method of payment for the manufacturing milk. Payment shall be made for the amount of the manufacturing milk

delivered during the first 15 days of any calendar month not later than the first day of the next following month and for the amount delivered during the remainder of the month not later than the 15th day of the next following month.

(d) The charges for transportation, if hauled by the handler, which shall be the lower of either of the following:

(1) A rate not in excess of the rate charged for actual or reasonably similar services by highway carriers, as the term "highway carrier" is defined in Section 3511 of the Public Utilities Code.

(2) The actual amount paid by a handler for that transportation.

The contract may contain any other provisions that are not in conflict with this chapter. A signed copy of the contract shall be filed by the producer with the director within five days of the date of its execution.

This section does not apply to the purchase of milk which does not meet market milk standards in Chapter 2 (commencing with Section 35751) of Part 2 of Division 15, when the milk has been processed on a dairy farm that held a valid market milk permit during the 30-day period preceding the purchase.

SEC. 2. Section 61411.2 of the Food and Agricultural Code is amended to read:

61411.2. Section 61411 does not apply to the purchase of manufacturing milk which is necessary to meet an unanticipated increase in demand or an unanticipated shortage in the supply of a handler if the quantity purchased from any one producer does not exceed 5,000 gallons in any one month. However, if the producer is a cooperative association acting as a producer, the total quantity purchased shall not exceed 30,000 gallons per month.

For a single transaction between a producer and handler, payment shall be made for the amount of milk delivered during the first 15 days of any calendar month not later than the first day of the next following month and payment shall be made for the amount of milk delivered during the remainder of the month not later than the 15th day of the next following month, unless the milk is subject to a pooling plan as authorized in Chapter 3 (commencing with Section 62700) and the pooling plan provides for different dates and methods of payment, in which case the date and method of payment for the milk shall be as provided for in the pooling plan.

SEC. 3. Section 61415.2 of the Food and Agricultural Code is amended to read:

61415.2. (a) If a handler does not pay for manufacturing milk delivered to him or her at the time and in the manner specified in the contract, the handler shall pay the producer interest on the unpaid amount from the time the payment was due until paid at the rate of 12 percent per annum. The interest is in addition to any other penalties provided in this chapter.

(b) If there is no contract for the delivery of milk to the handler or the delivery was made as a single transaction between the producer or handler, the handler shall pay the department interest

on the unpaid amount from the time the payment was due until paid at the interest rate specified in subdivision (a). The interest is in addition to any other penalties provided in this chapter.

SEC. 4. Section 62191 of the Food and Agricultural Code is amended to read:

62191. (a) Except as otherwise provided in Section 62193 or 62194, the purchase of any market milk in excess of 1,000 gallons monthly from any producer is an unlawful trade practice unless a written contract, which complies with all of the requirements which are prescribed by this section, has been entered into with the producer.

(b) The contract shall include all of the following:

(1) The amount of market milk which is to be purchased for any period.

(2) The minimum quantity of the market milk which is to be paid for as class 1, if any is to be purchased for this purpose. The quantity shall be stated in pounds of market milk, pounds of market milk fat, or gallons of market milk, unless the price which is to be paid for the class 1 market milk is established separately for the market milk fat and market skim milk, in which case the quantity may, in the alternative, be stated in both pounds of market milk fat and pounds of market skim milk separately. The minimum quantity of market milk to be paid for as class 1 shall not be less than 70 percent of the total quantity provided in the contract to be purchased at a milk products plant, and not less than 60 percent of the total quantity of market milk fat, or the total quantity of market skim milk components, but not necessarily both, provided in the contract to be purchased at a country plant, as defined by the director in stabilization and marketing plans.

(3) The price to be paid for all market milk received.

(4) The date and method of payment for the market milk. Payment shall be made for the amount of the market milk delivered during the first 15 days of any calendar month not later than the first day of the next following month and for the amount delivered during the remainder of the month not later than the 15th day of the next following month unless the milk is subject to a pooling plan as authorized in Chapter 3 (commencing with Section 62700) and the pooling plan provides for different dates and methods of payment, in which case the date and method of payment for the milk shall be as provided for in the pooling plan.

(5) The charges for transportation if hauled by the handler.

(6) A provision that market milk received within the total quantity provided by the contract to be purchased for any period shall not be paid for at less than the minimum price for market milk used for class 2.

(c) The contract may contain other provisions that are not in conflict with this chapter. A signed copy of the contract shall be filed by the producer with the director within five days from the date of its execution.

(d) Paragraphs (2) and (6) of subdivision (b) shall not be applicable if an equalization pool, as provided pursuant to Chapter 3 (commencing with Section 62700), is in effect for the area in which the purchase of the market milk occurs.

SEC. 5. Section 62193 of the Food and Agricultural Code is amended to read:

62193. Section 62191 does not apply to the purchase of market milk which is necessary to meet an unanticipated increase in demand or an unanticipated shortage in the supply of a handler if both of the following occur:

(a) The quantity of market milk purchased from any one producer does not exceed 5,000 gallons in any one month. However, if the producer is a cooperative association acting as a producer, the total quantity purchased shall not exceed 30,000 gallons per month.

(b) A complete record of all of these purchases is kept by the handler, and the price paid for the milk by the handler is not less than the price which is established in the applicable stabilization and marketing plan for the usage to which the milk is applied. For a single transaction between a producer and handler, payment shall be made for the amount of milk delivered during the first 15 days of any calendar month not later than the first day of the next following month and payment shall be made for the amount of milk delivered during the remainder of the month not later than the 15th day of the next following month, unless the milk is subject to a pooling plan as authorized in Chapter 3 (commencing with Section 62700) and the pooling plan provides for different dates and methods of payment, in which case the date and method of payment for the milk shall be as provided for in the pooling plan.

SEC. 6. Section 62201 of the Food and Agricultural Code is amended to read:

62201. (a) If a handler does not pay for market milk delivered to him or her at the time and in the manner specified in the contract, the handler shall pay the producer interest on the unpaid amount from the time the payment was due until paid at the rate of 12 percent per annum. This interest is in addition to any other penalties provided in this chapter.

(b) If there is no contract for the delivery of milk to the handler or the delivery was made as a single transaction between the producer or handler, the handler shall pay the department interest on the unpaid amount from the time the payment was due until paid at the interest rate specified in subdivision (a). The interest is in addition to any other penalties provided in this chapter.

SEC. 7. Section 62712 of the Food and Agricultural Code is amended to read:

62712. (a) The director may require handlers, including cooperative associations acting as handlers, to make reports at any intervals and in any detail that he or she finds necessary for the operation of the pool. In conjunction with the pools authorized by this chapter, the director may require handlers to make payments

into a settlement fund for fluid milk received and the director may provide for the disbursement of moneys from the settlement fund in the course of administering the pools. The director may employ a pool manager to operate each pool and may permit the pool manager to employ such other necessary personnel and incur such expenses incidental to the operation of the pool as the director finds are necessary.

The director may impose and collect a civil penalty of one hundred dollars ($100) from any handler or cooperative association acting as a handler that does not file a report on the date specified by the director pursuant to this subdivision. Any funds collected pursuant to this section shall be deposited in the Department of Food and Agriculture Fund and, upon appropriation by the Legislature, the funds may be expended for the purposes of this chapter.

Handlers who have a financial obligation to the pool resulting from the operation of the pooling plan shall pay the obligations to the pool manager each month as requested. All of these moneys shall be deposited in a bank or banks approved by the director, and shall be paid out by the pool manager to handlers who have pool credits resulting from the operation of the pooling plan. All financial operations of each pool shall be audited by the department at least once annually. The director may require handlers to make such deductions from amounts due to producers as he or she finds are necessary to establish a reserve fund to insure prompt payment to producers.

(b) The pool manager shall effectuate the purposes of Section 62711 by designating the percentage of each price class (i.e., classes 1, 2, 3, 4a, and 4b) to be paid within each pool settlement classification (i.e., quota pool, production pool, and overproduction pool), and in so doing he or she shall allocate the highest usage available, first to the quota pool, next to the production pool, and last to the overproduction pool.

(c) All pool quotas initially determined pursuant to Section 62707 shall be recognized and shall not in any way be diminished.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1102

An act to add Section 33308.1 to the Education Code and to add Section 11165.14 to the Penal Code, relating to schools.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. The Legislature finds and declares the following:

(a) That child abuse comes in many forms and occurs under many conditions.

(b) That the Child Abuse and Neglect Reporting Act, established pursuant to Chapter 1444 of the Statutes of 1987, requires any child care custodian, health practitioner, or employee of a child protective agency who knows or reasonably suspects a child has been the victim of child abuse to report that abuse to a child protective agency. A child protective agency for purposes of the act is a police or sheriff's department, a county probation department, or a county welfare department.

(c) That the Child Abuse and Neglect Reporting Act, established pursuant to Chapter 1444 of the Statutes of 1987, authorizes any other person who knows or observes a child whom he or she knows or reasonably suspects has been a victim of child abuse to report the known or suspected instance of child abuse to a child protective agency.

(d) That the Child Abuse and Neglect Reporting Act requires that child protective agencies investigate the reports received within their respective jurisdictions, which may include criminal and noncriminal complaints that are reported by school districts, county offices of education, and other private and public entities and individuals, and to report their findings to certain entities when those findings warrant a report.

SEC. 2. It is the intent of the Legislature that parents and guardians of school pupils be informed on how to recognize and how to report child abuse.

SEC. 3. It is further the intent of the Legislature that local child protective agencies, as defined by the Child Abuse and Neglect Reporting Act, upon receipt of a complaint by a parent or guardian of a pupil against a school employee, comply with the requirements of the Child Abuse and Neglect Reporting Act to investigate and, when appropriate, to send a report on a complaint that is substantiated, as defined in Section 11165.1 of the Penal Code, to the governing board of the school district or county office of education for its review.

SEC. 4. Section 33308.1 is added to the Education Code, to read:

33308.1. The State Department of Education shall adopt guidelines to be disseminated to parents or guardians of pupils that

describe the procedures that a parent or guardian can follow in filing a complaint of child abuse, as defined in Section 11165.6 of the Penal Code, with the school or a child protective services agency against a school employee or other person that commits an act of child abuse, as defined in Section 11165.6 of the Penal Code, against a pupil at a schoolsite.

SEC. 5. Section 11165.14 is added to the Penal Code, to read:

11165.14. The local child protective agency shall investigate a child abuse complaint filed by a parent or guardian of a pupil with a school or a local child protective agency against a school employee or other person that commits an act of child abuse, as defined in this article, against a pupil at a schoolsite and shall transmit a substantiated report, as defined in Section 11165.12, of that investigation to the governing board of the appropriate school district or county office of education. A substantiated report received by a governing board of a school district or county office of education shall be subject to the provisions of Section 44031 of the Education Code.

SEC. 6. The governing board of a school district or county office of education shall upon request disseminate the guidelines adopted by the State Department of Education pursuant to Section 33308.1 of the Education Code to parents or guardians in the primary language of the parent or guardian. The governing board of a school district or county office of education is encouraged to inform a parent or guardian that desires to file a complaint against a school employee or other person that commits an act of child abuse as defined in Section 11165.6 of the Penal Code against a pupil at a schoolsite of the procedures for filing that complaint with local child protective agencies pursuant to the Child Abuse and Neglect Reporting Act, established pursuant to Chapter 1444 of the Statutes of 1987. In the case of oral communications with the parent or guardian whose primary language is other than English, concerning that guideline or the procedures for filing child abuse complaints, the governing board shall provide an interpreter for that parent or guardian.

SEC. 7. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1103

An act to amend Section 1214.3 of the Penal Code, and to amend Sections 20002 and 20003 of the Vehicle Code, relating to vehicles.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 1214.3 of the Penal Code is amended to read:

1214.3. (a) Any county, by resolution of its board of supervisors, may establish a "Misdemeanor and Traffic Violation Pilot Project" within any judicial district within the county pursuant to this section.

(b) Notwithstanding any other provision of law, whenever a person is issued a citation for any violation of this code or of the Vehicle Code not declared to be a felony, or for any violation of an ordinance of a city, county, or a city and county relating to a traffic offense, and fails to appear, the person shall be advised in writing by the court of the nature of the violation and of the procedures relative to additional civil assessments described in this section.

(c) The defendant shall do one of the following within 30 days of receipt of the mailed notice:

(1) Pay the fine or post bail.

(2) Return the completed financial statement to the court.

(3) Return the promise to appear for trial.

(d) The notice shall include a return envelope from the court and a statement that failure to proceed pursuant to subdivision (c) will result in the issuance of a judgment in the amount of five hundred dollars ($500), in addition to liability for the amount of the fine.

(e) Where appropriate, all written advisements or notices given or sent pursuant to this section shall be in both English and Spanish.

(f) If the defendant does not respond within 30 days of receipt of the notice, the court shall send the defendant a notice of intent to issue judgment which shall advise the defendant that if he or she does not appear within 10 days, the five hundred dollars ($500) will become collectible as civil damages.

(g) If the defendant does not respond within 10 days of the issuance of the intent to issue judgment, the court shall issue a writ of execution and the five hundred dollars ($500) shall be collectible as civil damages.

(h) If a writ of execution is issued for collection of a civil assessment, the same writ also shall include an attachment for the amount of the fine or forfeiture for the underlying offense.

(i) The costs of levying, storing, or safekeeping all personal and real property seized by a levying officer in effectuating any process issued pursuant to this section shall be the responsibility of the owner of the property.

(j) After the writ of execution has been issued, the defendant may appear and, upon a showing of good cause, the civil fine shall be set aside, but subject to an administrative fee equal to 14 percent of the fine or forfeiture imposed, not to exceed five hundred dollars ($500). Thereafter, the defendant may address the underlying offense de novo. The clerk of the court shall transfer the amounts collected under this subdivision to the county treasurer for deposit in the county treasury. All moneys so deposited shall be transferred as follows: 50 percent of the money to the agency levying or collecting the judgment to be used exclusively for that agency, and 50 percent of that money to a fund in the county treasury and used exclusively to develop, maintain, and operate an automated county warrant system. The assessment imposed shall be subject to the due process requirements governing defense and collection of civil money judgments generally.

(k) Except in cases in which it is determined that the defendant has insufficient attachable assets, in which case the court may issue a bench warrant, no bench warrant or warrant of arrest shall be issued with respect to the failure to appear at the proceeding for which the judgment is imposed.

(*l*) For counties opting to participate in the pilot project, notwithstanding Section 1463, out of the moneys deposited with the county treasurer pursuant to Section 1463, there shall be transferred once a month an amount equal to the specified percentage of civil assessments collected during the preceding month upon a judgment made pursuant to Section 1214.1, in accordance with the following schedule:

(1) Twenty percent to be transferred to the law enforcement agency that issued the underlying citation, for use of that agency.

(2) Twenty-five percent to be transferred to the agency levying or collecting the judgment, for use of that agency.

(3) Five percent to be transferred to a county fund and used exclusively to develop, maintain, and operate an automated warrant system.

(4) Twenty-five percent to be deposited in the general fund of the county.

(5) Twenty-five percent to be transferred to the judicial district issuing the writ of execution.

(m) If the judgment is for a fine, with or without imprisonment, the judgment may be enforced in the manner provided for the enforcement of money judgments generally.

(n) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1993, deletes or extends that date.

SEC. 2. Section 20002 of the Vehicle Code is amended to read:

20002. (a) The driver of any vehicle involved in an accident resulting in damage to any property, including vehicles, shall immediately stop the vehicle at the scene of the accident and shall then and there do one of the following:

(1) Locate and notify the owner or person in charge of that property of the name and address of the driver and owner of the vehicle involved and, upon locating the driver of any other vehicle involved or the owner or person in charge of any damaged property, upon being requested, present his or her driver's license, vehicle registration, and evidence of financial responsibility as specified in subparagraph (B) of paragraph (2) to the other driver, property owner, or person in charge of that property. The information presented shall include the current residence address of the driver and of the registered owner. If the registered owner of an involved vehicle is present at the scene, he shall also, upon request, present his driver's license information, if available, or other valid identification to the other involved parties.

(2) If a traffic or police officer is present at the scene of an accident and a police report is made, each driver involved in the accident shall, unless rendered incapable, exchange with any other driver or property owner involved in the accident and present at the scene, all of the following information:

(A) Driver's name and current residence address, driver's license number, vehicle identification number, and name and current residence address of registered owner.

(B) Evidence of financial responsibility, as specified in Section 16021. If the financial responsibility of a person is a form of insurance, then that person shall, unless rendered incapable, supply the name and address of the insurance company.

(3) Leave in a conspicuous place on the vehicle or other property damaged a written notice giving the name and address of the driver and of the owner of the vehicle involved and a statement of the circumstances thereof and shall without unnecessary delay notify the police department of the city wherein the collision occurred or, if the collision occurred in unincorporated territory, the local headquarters of the Department of the California Highway Patrol.

(b) Any person who parks a vehicle which, prior to the vehicle again being driven, becomes a runaway vehicle and is involved in an accident resulting in damage to any property, attended or unattended, shall comply with the requirements of this section relating to notification and reporting and shall, upon conviction thereof, be liable to the penalties of this section for failure to comply with the requirements.

(c) (1) Any person failing to comply with all the requirements of paragraph (1) or (3) of subdivision (a), or subdivision (b) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment in the county jail for not to exceed six months or by a fine of not to exceed one thousand dollars ($1,000), or by both.

(2) Any person who willfully fails to comply with the requirements of paragraph (2) of subdivision (a) shall be guilty of an infraction punishable by a fine not to exceed two hundred fifty dollars ($250).

SEC. 3. Section 20003 of the Vehicle Code is amended to read:

20003. (a) The driver of any vehicle involved in an accident resulting in injury to or death of any person shall also give his or her name, current residence address, the registration number of the vehicle he or she is driving, and the name and current residence address of the owner to the person struck or the driver or occupants of any vehicle collided with and shall give the information to any traffic or police officer at the scene of the accident and shall render to any person injured in the accident reasonable assistance, including the transportation or the making arrangements for the transportation of that person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that treatment is necessary or if that transportation is requested by the injured person.

(b) Any driver subject to the provisions of subdivision (a) shall also, upon being requested, exhibit his or her driver's license, if available, to the person struck or to the driver or occupants of any vehicle collided with and to any traffic or police officer at the scene of the accident.

SEC. 4. The accident reporting requirements of subdivisions (a) and (b) of Section 20002 of the Vehicle Code shall be printed in any driver's manual issued by the Department of Motor Vehicles on and after July 1, 1992.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1104

An act relating to the 1992 World Exposition, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. The sum of three hundred thousand dollars ($300,000) is hereby appropriated from the California Unitary Fund to the Business, Transportation and Housing Agency. A portion of the funds shall be used to secure exhibit space at the 1992 World Exposition in Seville, Spain, through a deposit to the United States

Information Agency that would be refundable if the state chooses not to participate at the world exposition and to provide for the continued design of the California exhibit and its elements. The pavilion shall be used to showcase and promote California-based products and services, and promote California culture, lifestyle, and tourism to the European community in general and the country of Spain in particular.

SEC. 2. The Secretary of Business, Transportation and Housing is hereby encouraged to seek, and may spend, private sector donations made by any corporation or private entity, and may expend the appropriation, in advance of services rendered, made pursuant to Section 1 for the purposes specified therein, and may expend any additional state funds appropriated for this purpose, to "California 92," a California not-for-profit corporation founded for the purpose of the planning, design, fabrication, operation, and coordination of activities for the California pavilion, and for the raising of private funds to offset and enhance the public funds used for the state's participation in the 1992 World Exposition in Seville, Spain.

SEC. 3. Given the specialized nature of the world exposition and the expertise required to design, construct, transport, and install pavilion elements, and to operate the pavilion in a foreign country under the provisions of the treaty governing international expositions, any contracts entered into with foreign vendors who do not maintain a business office in the United States pursuant to this act and any moneys appropriated for the purchase of goods and services outside the United States for the 1992 World Exposition are hereby exempt from the requirements of Article 1.5 (commencing with Section 10115) of Chapter 1 of, and Articles 1 (commencing with Section 10290) to 5 (commencing with Section 10355), inclusive, of Chapter 2 of, Part 2 of Division 2 of the Public Contract Code.

SEC. 4. If for any reason the Secretary of Business, Transportation and Housing decides that the state shall not participate in the 1992 World Exposition in Seville, Spain, funds appropriated pursuant to this act shall revert to the California Unitary Fund.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public health or safety within the meaning of Article IV of the Constitution and shall go into effect immediately. The facts constituting the necessity are:

In order to secure the necessary exhibit space and organize the necessary operations of the state's pavilion at the 1992 World Exposition, it is necessary that this act take effect immediately.

CHAPTER 1105

An act to amend Sections 1021, 1025.5, 1033, 1035.5, 1066.2, 1066.4, 1066.8, 1066.10, 1066.11, and 1066.17 of the Insurance Code, relating to insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 1021 of the Insurance Code is amended to read:

1021. (a) Upon the making of an order to liquidate the business of such person, the commissioner shall cause to be published notice to its policyholders, creditors, shareholders, and all other persons interested in its assets. Such notice shall require claimants to file their claims with the commissioner, together with proper proofs thereof, within six months after the date of first publication of such notice, in the manner specified in this article.

(b) The six-month period specified in subdivision (a) shall not apply to the California Insurance Guarantee Association, or the Robbins-Seastrand Health Insurance Guaranty Association, provided it files with the commissioner a notice of possible claim within such six-month period and files actual claim or claims within such periods of time as may be permitted by order of court.

SEC. 2. Section 1025.5 of the Insurance Code is amended to read:

1025.5. Notwithstanding the provisions of Sections 1021 to 1025, inclusive, the commissioner may, in lieu of requiring claimants to file separate claims:

(a) File a claim himself on behalf of all claimants for return premiums.

(b) Permit any assignee of the right of the insured to a return premium by virtue of a valid assignment, as security or otherwise, made prior to an order under Section 1011 or a seizure under Section 1013, whichever is earlier in time in the particular case, to file one claim as assignee on behalf of all insureds having assigned rights to the assignee, which shall set forth such information as may be required under Section 1023.

(c) Permit the California Insurance Guarantee Association under subdivision (b) of Section 1063.4, or the Robbins-Seastrand Health Insurance Guaranty Association under paragraph (1) of subdivision (*l*) of Section 1066.7, to file one claim, for its association, combining all assigned claims and setting forth the information that the commissioner may require under Section 1023.

SEC. 3. Section 1033 of the Insurance Code is amended to read:

1033. (a) Claims allowed in a proceeding under this article shall be given preference in the following order:

(1) Expense of administration.

(2) Unpaid charges due under the provisions of Section 736.

(3) Taxes due to the State of California.

(4) Claims having preference by the laws of the United States and by laws of this state.

(5) All claims of the California Insurance Guarantee Association, or the Robbins-Seastrand Health Insurance Guaranty Association, and associations or entities performing a similar function in other states, together with claims for refund of unearned premiums and all claims of policyholders of an insolvent insurer that are not covered claims.

Claims excluded by paragraphs (3) (except claims for refund of unearned premiums), (4), (5), (7), and (8) of subdivision (c) of Section 1063.1 and subdivisions (h) and (i) of Section 1063.2, paragraph (2) of subdivision (b) of Section 1066.2, shall be excluded from this priority.

(6) All other claims.

(b) Upon the issuance of an order appointing a conservator or liquidator for any person under the provisions of either Section 1011 or 1016 or both such sections, the lien of taxes due to the State of California imposed by Article 4 (commencing with Section 12491) of Chapter 4 of Part 7 of Division 2 of the Revenue and Taxation Code shall become subordinate to the reasonable administrative expenses of the proceeding under the order.

SEC. 4. Section 1035.5 of the Insurance Code is amended to read:

1035.5. Notwithstanding the provisions of Article 14 (commencing with Section 1010), with regard only to those insurers subject to this article:

(a) Within 120 days of the issuance of an order directing the winding up and liquidation of the business of an insolvent insurer under Section 1016, the commissioner shall make application to the court for approval of a proposal to disburse the insurer's assets, from time to time as such assets become available, to the California Insurance Guarantee Association, or the Robbins-Seastrand Health Insurance Guaranty Association, and to any entity or person performing a similar function in another state.

(b) The proposal shall at least include the following provisions for:

(1) Reserving amounts for the payment of expenses of administration and the payment of claims of secured creditors (to the extent of the value of the security held) and claims falling within the priorities established in paragraphs (1) to (4), inclusive, of subdivision (a) of Section 1033.

(2) Disbursement of the assets marshaled to date and subsequent disbursements of assets as they become available.

(3) Equitable allocation of disbursements to each of the associations entitled thereto.

(4) The securing by the commissioner from each of the associations entitled to disbursements pursuant to this section of an agreement to return to the commissioner such assets previously

disbursed as may be required to pay claims of secured creditors and claims falling within the priorities established in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 1033 in accordance with the priorities. No bond shall be required of any association.

(5) A full report to be made by the association to the commissioner accounting for all assets so disbursed to the association, all disbursements made therefrom, any interest earned by the association on the assets, and any other matter as the court may direct.

(c) The commissioner's proposal shall provide for disbursements to the associations in amounts estimated at least equal to the claim payments made or to be made by the associations for which such associations could assert a claim against the commissioner, and shall further provide that if the assets available for disbursement from time to time do not equal or exceed the amount of the claim payments made or to be made by the associations, then disbursements shall be in the amount of available assets. The reserves of the insolvent insurer on the date of the order of liquidation shall be used for purposes of determining the pro rata allocation of funds among eligible associations.

(d) The commissioner shall offset the amount disbursed to any entity or person performing a function in any other state similar to that function performed by the California Insurance Guarantee Association, or the Robbins-Seastrand Health Insurance Guaranty Association, by the amount of any statutory deposit, premiums, or any other asset of the insolvent insurer held in that state.

(e) Notice of such application shall be given to the associations in and to the commissioners of insurance of each of the states. Any such notice shall be deemed to have been given when deposited in the United States certified mails, first-class postage prepaid, at least 30 days prior to submission of such application to the court. Action on the application may be taken by the court provided the above required notice has been given and provided further that the commissioner's proposal complies with paragraphs (1) and (4) of subdivision (b).

SEC. 5. Section 1066.2 of the Insurance Code is amended to read:

1066.2. (a) This article shall provide coverage for the policies specified in subdivision (b):

(1) To persons who, regardless of where they reside (except for nonresident certificate holders under group policies or contracts), are the beneficiaries, assignees or payees of the persons covered under paragraph (2).

(2) To persons who are owners of or certificate holders under those policies or contracts, and who either:

(A) Are residents.

(B) Are not residents, but only under all of the following conditions:

(i) The insurers which issued the policies are domiciled in this state.

(ii) The insurers have never held a license or certificate of authority in the states in which those persons reside.

(iii) Those states have associations similar to the association created by this article.

(iv) Those persons are not eligible for coverage by those associations.

(b) (1) This article shall provide coverage to the persons specified in subdivision (a) for direct, nongroup health policies or contracts, and for certificates under direct group policies and contracts.

(2) This article shall not provide coverage for the following:

(A) Any portion of a policy or contract not guaranteed by the insurer, or under which the risk is borne by the policy or contract holder.

(B) Any policy or contract of reinsurance, unless assumption certificates have been issued.

(C) Any plan or program of any employer, association, or similar entity to provide health benefits to its employees or members to the extent that the plan or program is self-funded or insured, including, but not limited to, benefits payable to any employer, association, or similar entity under the following:

(i) A Multiple Employer Welfare Arrangement as defined in Section 514 of the Employee Retirement Income Security Act of 1974, as amended.

(ii) A minimum premium group insurance plan.

(iii) A stop-loss group insurance plan.

(iv) An administrative-services-only contract.

(D) Any portion of a policy or contract to the extent that it provides dividends or experience rating credits, or provides that any fees or allowances be paid to any person, including the policy or contract holder, in connection with the service to or administration of that policy or contract.

(E) Any policy or contract issued in this state by a member insurer at a time when it was not licensed or did not have a certificate of authority to issue that policy or contract in this state.

(c) The benefits for which the association may become liable shall in no event exceed the lesser of (1) the contractual obligations for which the insurer is liable or for which the insurer would have been liable if it were not an impaired or insolvent insurer, or (2) $200,000 in health insurance benefits, an amount that shall annually increase or decrease based upon the health care cost component of the consumer price index.

SEC. 6. Section 1066.4 of the Insurance Code is amended to read:

1066.4. As used in this article:

(a) "Account" means the account created under Section 1066.5.

(b) "Association" means the Robbins-Seastrand California Health Insurance Guaranty Association created under Section 1066.5.

(c) "Commissioner" means the Insurance Commissioner.

(d) "Contractual obligation" means any obligation under a policy

or contract or certificate under a group policy or contract, or portion thereof, for which coverage is provided under Section 1066.2.

(e) "Covered policy" means any policy or contract under Section 1066.2.

(f) "Impaired insurer" means a member insurer which, after January 1, 1991, is not an insolvent insurer, and (1) is deemed by the commissioner to be potentially unable to fulfill its contractual obligations or (2) is placed under an order of rehabilitation or conservation by a court of competent jurisdiction.

(g) "Insolvent insurer" means a member insurer which, after January 1, 1991, is placed under an order of liquidation by a court of competent jurisdiction with a finding of insolvency.

(h) "Member insurer" means any insurer licensed or which holds a certificate of authority to transact in this state any kind of insurance for which coverage is provided under Section 1066.2 and includes any insurer whose license or certificate of authority may have been suspended, revoked, not renewed, or voluntarily withdrawn, but does not include the following:

(1) A mandatory state pooling plan.

(2) A mutual assessment company or any entity that operates on an assessment basis.

(3) An insurance exchange.

(4) A nonprofit hospital service plan.

(5) A health care service plan.

(6) A fraternal benefit society.

(i) "Person" means any individual, corporation, partnership, association, or voluntary organization.

(j) "Premiums" means amounts received on covered policies or contracts less premiums, considerations, and deposits returned thereon, and less dividends and experience credits thereon. "Premiums" does not include any amounts received for any policies or contracts or for the portions of any policies or contracts for which coverage is not provided under subdivision (b) of Section 1066.2.

(k) "Resident" means any person who resides in this state at the time a member insurer is determined to be an impaired or insolvent insurer and to whom a contractual obligation is owed. A person may be a resident of only one state, which in the case of a person other than a natural person shall be its principal place of business.

(*l*) "Supplemental contract" means any agreement entered into for the distribution of policy or contract proceeds.

SEC. 7. Section 1066.8 of the Insurance Code is amended to read:

1066.8. (a) For the purpose of providing the funds necessary to carry out the powers and duties of the association, the board of directors shall assess the member insurers at the time and for the amounts that the board finds necessary. Assessments shall be due not more than 30 days after prior written notice to the member insurers and shall accrue interest at the rate set forth in 28 U.S.C. Sec. 1961 on and after the due date.

(b) There shall be two assessments, as follows:

(1) Class A assessments shall be made for the purpose of meeting administrative and legal costs and other expenses and examinations conducted under the authority of subdivision (e) of Section 1066.11. Class A assessments may be made whether or not related to a particular impaired or insolvent insurer.

(2) Class B assessments shall be made to the extent necessary to carry out the powers and duties of the association under Section 1066.7 with regard to an impaired or an insolvent insurer.

(c) (1) The amount of any Class A assessment shall be determined by the board and may be made on a pro rata or nonpro rata basis. If pro rata, the board may provide that it be credited against future Class B assessments. A nonpro rata assessment shall not exceed one hundred fifty dollars ($150) per member insurer in any one calendar year. The amount of any Class B assessment shall be allocated for assessment purposes among the accounts pursuant to an allocation formula which may be based on the premiums or reserves of the impaired or insolvent insurer or any other standard deemed by the board in its sole discretion as being fair and reasonable under the circumstances.

(2) Class B assessments against member insurers shall be in the proportion that the premiums received on business in this state by each assessed member insurer or policies or contracts covered by each account for the three most recent calendar years for which information is available preceding the year in which the insurer became impaired or insolvent, as the case may be, bears to the premiums received on business in this state for those calendar years by all assessed member insurers.

(3) Assessments for funds to meet the requirements of the association with respect to an impaired or insolvent insurer shall not be made until necessary to implement the purposes of this article. Classification of assessments under subdivision (b) and computation of assessments under this paragraph shall be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible.

(d) The association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. In the event an assessment against a member insurer is abated, or deferred in whole or in part, the amount by which the assessment is abated or deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section.

(e) (1) The total of all Class B assessments upon a member insurer shall not in any one calendar year exceed 1 percent of the insurer's average premiums received in this state on the policies and contracts covered by the account during the three calendar years preceding the year in which an insurer became an impaired or insolvent insurer. If the maximum assessment, together with the other assets of the association in any account, does not provide in any

one year in the account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed as soon thereafter as permitted by this article.

(2) The board may provide in the plan of operation a method of allocating funds among claims, whether relating to one or more impaired or insolvent insurers, when the maximum assessment will be insufficient to cover anticipated claims.

(f) The board may, by any equitable method as established in the plan of operation, refund to member insurers, in proportion to the contribution of each insurer to the account, the amount by which the assets of the account exceed the amount the board finds is necessary to carry out during the coming year the obligations of the association with regard to that account, including assets accruing from assignment, subrogation, net realized gains and income from investments. A reasonable amount may be retained in the account to provide funds for the continuing expenses of the association and for future losses.

(g) The association shall issue to each insurer paying an assessment under this article, other than Class A assessment, a certification of contribution, in a form prescribed by the commissioner, for the amount of the assessment so paid. All outstanding certificates shall be of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the insurer in its financial statement as an asset in the form and for the amount, if any, and period of time that the commissioner may approve.

(h) (1) The plan of operation adopted pursuant to Section 1066.9 shall contain provisions whereby each member insurer is required to recoup over a reasonable length of time a sum reasonably calculated to recoup the assessments paid by the member insurer under this article by way of a surcharge on premiums charged for insurance policies to which this article applies. Amounts recouped shall not be considered premiums for any other purpose, including the computation of gross premium tax or agent's commission.

(2) Member insurers who collect surcharges in excess of premiums paid pursuant to this section for a insolvent insurer shall remit the excess to the association as an additional premium within 120 days after the end of the collection period as determined by the association. The excess shall be applied to reduce future premium charges for that insurer in the appropriate category.

(3) The plan of operation may permit a member insurer to omit the collection of the surcharge from its insureds when the expense of collecting the surcharge would exceed the amount of the surcharge. However, nothing in this paragraph shall relieve the member insurer of its obligation to recoup the amount of the surcharge otherwise collectible.

(i) Any statement of the amount of surcharge required to be provided by the association shall include a description of, and purpose for, the Robbins-Seastrand California Health Insurance

Guaranty Association, as follows:

"Companies writing health insurance business in California are required to participate in the Robbins-Seastrand California Insurance Health Guaranty Association. If a company becomes insolvent, the Robbins-Seastrand California Health Insurance Guaranty Association settles unpaid claims and assesses each insurance company for its fair share."

"California law requires all companies to surcharge policies to recover these assessments. If your policy is surcharged, "CA Surcharge" with an amount will be displayed on your premium notice."

SEC. 8. Section 1066.10 of the Insurance Code is amended to read:

1066.10. (a) In addition to the duties and powers enumerated elsewhere in this article, the commissioner shall do all of the following:

(1) Upon request of the board of directors, provide the association with a statement of the premiums in this and any other appropriate states for each member insurer.

(2) When an impairment is declared and the amount of the impairment is determined, serve a demand upon the impaired insurer to make good the impairment within a reasonable time; notice to the impaired insurer shall constitute notice to its shareholders, if any; the failure of the insurer to promptly comply with such demand shall not excuse the association from the performance of its powers and duties under this article.

(3) In any liquidation or rehabilitation proceeding involving a domestic insurer, be appointed as the liquidator or rehabilitator.

(b) The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative the commissioner may levy a forfeiture on any member insurer which fails to pay an assessment when due. The forfeiture shall not exceed 5 percent of the unpaid assessment per month, but no forfeiture shall be less than one hundred dollars ($100) per month.

(c) Any action of the board of directors or the association may be appealed to the commissioner by any member insurer if that appeal is taken within 60 days of the final action being appealed. If a member company is appealing an assessment, the amount assessed shall be paid to the association and available to meet association obligations during the pendency of an appeal. If the appeal on the assessment is upheld, the amount paid in error or excess shall be returned to the member company. Any final action or order of the commissioner shall be subject to judicial review in a court of competent jurisdiction.

(d) The liquidator, rehabilitator, or conservator of any impaired insurer may notify all interested persons of the effect of this article.

SEC. 9. Section 1066.11 of the Insurance Code is amended to

read:

1066.11. (a) To aid in the detection and prevention of insurer insolvencies or impairments, it shall be the duty of the commissioner to do all of the following:

(1) To notify the commissioners of all the other states, territories of the United States and the District of Columbia when he or she takes any of the following actions against a member insurer:

(A) Revocation of a license.

(B) Suspension of license.

(C) Makes any formal order that such company restrict its premium writing, obtain additional contributions to surplus, withdraw from the state, reinsure all or any part of its business, or increase capital, surplus, or any other account for the security of policyholders or creditors.

The notice shall be mailed to all commissioners within 30 days following the action taken or the date on which the action occurs.

(2) To report to the board of directors, the Legislature, and the Governor when he or she has taken any of the actions set forth in paragraph (1) or has received a report from any other commissioner indicating that any action has been taken in another state. The report to the board of directors, the Legislature, and the Governor shall contain all significant details of the action taken on the report received from another commissioner.

(3) To report to the board of directors when he or she has reasonable cause to believe from any examination, whether completed or in process, of any member company that company may be an impaired or insolvent insurer.

(4) To furnish to the board of directors the National Association of Insurance Commissioners (NAIC) Insurance Regulatory Information System (IRIS) ratios and listings of companies not included in the ratios developed by the NAIC, and the board may use the information contained therein in carrying out its duties and responsibilities under this section. That report and the information contained therein shall be kept confidential by the board of directors until such time as made public by the commissioner or other lawful authority.

(b) The commissioner may seek the advice and recommendation of the board of directors concerning any matter affecting his or her duties and responsibilities regarding the financial condition of member insurers and companies seeking admission to transact insurance business in this state.

(c) The board of directors may, upon majority vote, make reports and recommendations to the commissioner upon any matter germane to the solvency, liquidation, rehabilitation, or conservation of any member insurer or germane to the solvency of any company seeking to do an insurance business in this state. Those reports and recommendations shall not be considered public documents.

(d) It shall be the duty of the board of directors, upon majority vote, to notify the commissioner of any information indicating any

member insurer may be an impaired or insolvent insurer.

(e) The board of directors may, upon majority vote, request that the commissioner order an examination of any member insurer which the board in good faith believes may be an impaired or insolvent insurer. Within 30 days of the receipt of that request, the commissioner shall begin the examination. The examination may be conducted as a National Association of Insurance Commissioners examination or may be conducted by persons the commissioner designates. The cost of the examination report shall be paid by the association and the examination report shall be treated as are other examination reports. In no event shall the examination report be released to the board of directors prior to its release to the public, but this shall not preclude the commissioner from complying with subdivision (a).

The commissioner shall notify the board of directors when the examination is completed. The request for an examination shall be kept on file by the commissioner but it shall not be open to public inspection prior to the release of the examination report to the public.

(f) The board of directors may, upon majority vote, make recommendations to the commissioner for the detection and prevention of insurer insolvencies.

(g) The board of directors shall, at the conclusion of any insurer insolvency in which the association was obligated to pay covered claims, prepare a report to the commissioner containing information it may have in its possession bearing on the history and causes of the insolvency. The board shall cooperate with the boards of guaranty associations in other states in preparing a report on the history and causes of insolvency of a particular insurer, and may adopt by reference any report prepared by those other associations.

SEC. 10. Section 1066.17 of the Insurance Code is amended to read:

1066.17. (a) No person, including an insurer, agent, or affiliate of an insurer shall make, publish, disseminate, circulate, or place before the public, or cause directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in any newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio station or television station, or in any other way, any advertisement, announcement or statement, written or oral, which uses the existence of the Health Insurance Guaranty Association of this state for the purpose of sales, solicitation, or inducement to purchase any form of insurance covered by the Robbins-Seastrand Health Insurance Guaranty Association Act. However, this subdivision shall not apply to the Robbins-Seastrand California Health Insurance Guaranty Association or any other entity which does not sell or solicit insurance.

(b) On or before June 1, 1991, the association shall prepare a summary document describing the general purposes and current

limitations of this article in compliance with subdivision (c). The document shall be submitted to the commissioner for approval. Sixty days after receiving approval, no insurer may deliver a policy or contract described in paragraph (1) of subdivision (b) of Section 1066.2, to a policy or contract holder unless the document is delivered to the policy or contract holder prior to or at the time of delivery of the policy or contract except if subdivision (d) applies. The document should also be available upon request by a policyholder. The distribution, delivery, or contents or interpretation of the document shall not mean that either the policy or the contract or the holder thereof will be covered in the event of the impairment or insolvency of a member insurer. The description document shall be revised by the association as amendments to this article may require. Failure to receive the document shall not give the policyholder, contract holder, certificate holder, or insured any greater rights than those stated in this article.

(c) The document prepared under subdivision (b) shall contain a clear and conspicuous disclaimer on its face. The commissioner shall promulgate a rule establishing the form and content of the disclaimer. The disclaimer shall do all of the following:

(1) State the name and address of the health insurance guaranty association and insurance department.

(2) Prominently warn the policy or contract holder that the Robbins-Seastrand California Health Insurance Guaranty Association may not cover the policy or, if coverage is available, it will be subject to substantial limitations and exclusions and conditioned on continued residence in the state.

(3) State that the insurer and its agents are prohibited by law from using the existence of the Robbins-Seastrand California Health Insurance Guaranty Association for the purpose of sales, solicitation or inducement to purchase any form of insurance.

(4) Emphasize that the policy or contract holder should not rely on coverage under the Robbins-Seastrand California Health Insurance Guaranty Association when selecting an insurer.

(5) Provide other information as directed by the commissioner.

(d) No insurer or agent may deliver a policy or contract described in paragraph (1) of subdivision (b) of Section 1066.2, and excluded under subparagraph (A) of paragraph (2) of subdivision (b) of Section 1066.2 from coverage under this article unless the insurer or agent, prior to or at the time of delivery, gives the policy or contract holder a separate written notice which clearly and conspicuously discloses that the policy or contract is not covered by the Robbins-Seastrand California Health Insurance Guaranty Association. The commissioner shall by rule specify the form and content of the notice, however the following form for the disclaimer notice is suggested:

ROBBINS-SEASTRAND CALIFORNIA HEALTH INSURANCE GUARANTY ASSOCIATION DISCLAIMER

"The Robbins-Seastrand California Health Insurance Guaranty Association provides coverage of claims under some types of policies if the insurer becomes impaired or insolvent. COVERAGE MAY NOT BE AVAILABLE FOR YOUR POLICY. Even if coverage is provided, there are significant limits and exclusions. Coverage is always conditioned on residence in this state. Other conditions may also preclude coverage.

The Robbins-Seastrand California Health Insurance Guaranty Association or the Department of Insurance will respond to any questions you may have which are not answered by this document. Your insurer and agent are prohibited by law from using the existence or its coverage to sell you an insurance policy.

You should not rely on availability of coverage under the Robbins-Seastrand California Health Insurance Guaranty Association when selecting an insurer. (Insert addresses of the association and department.)"

Insurers and agents shall deliver the document and disclaimer described under subdivisions (b) and (c) when a customer is solicited if a "free look" period is not required by state law.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure the proper implementation of the Guaranty Fund and the Robbins-Seastrand California Health Insurance Guaranty Association at the earliest possible time, and to ensure that policyholders are in a position to have claims paid when an insurer is declared financially impaired or insolvent, it is necessary that this act take effect immediately.

CHAPTER 1106

An act to amend Section 42145 of, and to add and repeal Chapter 4 (commencing with Section 40700) of Part 1 of Division 30 of, the Public Resources Code, relating to solid waste, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Chapter 4 (commencing with Section 40700) is added to Part 1 of Division 30 of the Public Resources Code, to read:

CHAPTER 4. LOCAL GOVERNMENT TECHNICAL ADVISORY COMMITTEE

Article 1. Definitions

40700. The following definitions govern the construction of this chapter.

40701. "Advisory committee" or "committee" means the Local Government Technical Advisory Committee created pursuant to Section 40705.

Article 2. Findings and Declarations

40703. The Legislature hereby finds and declares, as follows:

(a) The responsibilities of cities, counties, and special districts under this division are integral to the successful implementation of this division's purposes.

(b) Local government's responsibilities for planning and managing the state's solid waste under this division are substantially greater and more complex than under Division 7.3 (commencing with Section 66700) of the Government Code, the former Nejedly-Z'berg-Dills Solid Waste Management and Resource Recovery Act of 1972 which was repealed by Chapter 1095 of the Statutes of 1989.

(c) It is in the state's interest to ensure that local governments plan and manage the state's solid waste in an effective and environmentally sound manner and that local governments be involved in the policies and regulations which affect them.

(d) For these reasons, it is, therefore, necessary for the board to establish an advisory committee of local government representatives to assist and advise the board in implementing Part 2 (commencing with Section 40900).

Article 3. Membership

40705. The Local Government Technical Advisory Committee is hereby created in the board.

40706. Within 90 days after the effective date of this chapter, the Governor, the Senate Committee on Rules, and the Speaker of the Assembly shall appoint the members of the advisory committee who shall reflect the diversity of solid waste problems that local governments face throughout the state. The appointments shall also reflect the ethnic and cultural diversity of the state and may be selected from recommendations provided by the County Supervisors Association of California, the League of California Cities, and the Solid Waste Association of North America. Each member shall serve a two-year term, except that the first members appointed shall classify themselves by lot so that one-half serve an initial term of one year and one-half serve an initial term of two years.

40707. The advisory committee shall consist of the following members:

(a) One member appointed by the Governor, who shall represent cities, who has demonstrated expertise and at least three years of working experience in the collection phase of solid waste management and is an employee of a city.

(b) One member appointed by the Governor, who shall represent counties, who has demonstrated expertise and at least three years of working experience in the collection phase of solid waste management and is an employee of a county.

(c) One member appointed by the Governor, who shall represent cities, who has demonstrated expertise and at least three years of working experience in source reduction and recycling and is an employee of a city.

(d) One member appointed by the Governor, who shall represent counties, who has demonstrated expertise and at least three years of working experience in source reduction and recycling and is an employee of a county.

(e) One member appointed by the Governor, who shall represent cities, who has demonstrated expertise and at least three years of working experience in solid waste management planning and is an employee of a city.

(f) One member appointed by the Senate Committee on Rules, who shall represent counties, who has demonstrated expertise and at least three years of working experience in solid waste management planning and is an employee of a county.

(g) One member appointed by the Senate Committee on Rules, who shall represent cities, who has demonstrated expertise and at least three years of working experience in the disposal phase of solid waste management and is an employee of a city.

(h) One member appointed by the Speaker of the Assembly, who shall represent counties, who has demonstrated expertise and at least three years of working experience in the disposal phase of solid waste management and is an employee of a county.

(i) One member appointed by the Speaker of the Assembly, who shall represent special districts, including sanitation districts, who has at least three years of working experience in either the collection or disposal of solid waste, or both, and is an employee of a special district or sanitation district.

40708. The advisory committee shall annually select a chairperson from among its members by majority vote.

40709. Members shall be reimbursed at a rate of one hundred dollars ($100) per day for each day of meeting, but not more than four hundred dollars ($400) per month, plus expenses for travel, at the rate paid to officers, employees, experts, and agents of the state set by the Director of the Department of Personnel Administration pursuant to Section 19820 of the Government Code.

40709.5. (a) No member of the advisory committee shall participate in making any recommendation to the board if the

member knows, or has reason to know, that the member has a financial interest, as specified in Section 87103 of the Government Code, in any private solid waste enterprise, as defined in Section 40193.

(b) Each member shall file a statement disclosing the member's investments, the member's interest in real property, and the member's income with the Fair Political Practices Commission consistent with the dates and informational requirements required by Article 2 (commencing with Section 87200) of Chapter 7 of Title 9 of the Government Code.

(c) Any member who violates this section shall be liable in a civil action brought by the board, the district attorney, city attorney, or the Attorney General for an amount of up to one thousand dollars ($1,000).

(d) No person who is required to register as a lobbyist pursuant to Article 1 (commencing with Section 86100) of Chapter 6 of Title 9 of the Government Code shall be appointed to the advisory committee.

Article 4. Duties

40710. The advisory committee shall meet not less than once each calendar quarter in an open and public meeting and may meet as determined by the board. Within 30 days after the advisory committee meets, it shall submit the status of any items it discusses and any recommendations it makes to the board pursuant to Section 40711.

40711. The advisory committee shall provide any advice which may be necessary to assist the board in carrying out the requirements of Part 2 (commencing with Section 40900). In particular, the advisory committee shall perform the following tasks:

(a) Provide a direct liaison between the board and local governments.

(b) Advise the board of potential impacts of proposed board policies and regulations on local solid waste programs.

(c) Advise the board on the impacts of statewide programs in municipal solid waste management on local solid waste programs.

(d) Make recommendations to the board on incentive and grant programs to achieve integrated waste management objectives.

(e) Advise the board on regional approaches to integrated waste management and make recommendations to the board on strategies for implementation of programs.

40712. The board shall provide staff to assist the advisory committee in carrying out its duties. It is the intent of the Legislature that the board provide this assistance from its available resources.

40713. This chapter shall remain operative only until January 1, 1995, or until the operative date of any amendments to Section 40401 requiring the appointment of a member to the board who has previously served as an elected local government official with

demonstrated expertise in solid waste management and recycling, whichever occurs earlier, and as of January 1, 1995, this chapter is repealed, unless a later enacted statute, which is enacted before January 1, 1995, deletes or extends that date on which it becomes inoperative and repealed.

SEC. 2. Section 42145 of the Public Resources Code is amended to read:

42145. (a) The local governing body may, either by ordinance or resolution, upon the recommendation of the appropriate land use planning agency, propose eligible parcels of property within its jurisdiction as a recycling market development zone.

(b) The proposal of a recycling market development zone shall be based upon the following findings by the local governing body:

(1) The current waste management practices and conditions are favorable to development of postconsumer waste material markets.

(2) The designation as a recycling market development zone is necessary in order to assist in attracting private sector recycling investments to the area.

(c) (1) Upon appropriation by the Legislature in the annual Budget Act, the board may make low-interest loans to local governing bodies and private business entities within a recycling market development zone from money in the Recycling Market Development Revolving Loan Account, which is hereby created in the Integrated Waste Management Fund, for the purpose of assisting the board and local agencies in complying with Section 40051 and to assist cities and counties in complying with Section 41780.

(2) The board shall establish and collect fees for applications for loans authorized by this section. The application fee shall be set at a level to fund the board's cost of processing applications for loans. In addition, the board shall establish a schedule of fees, or points, for loans which are entered into by the board, to fund the board's administration of the revolving loan program. The revenue from the fees shall be deposited in the Recycling Market Development Revolving Loan Account. The board may, upon appropriation by the Legislature in the annual Budget Act, use revenue in the account for the administration of the revolving loan program. In addition, the board may fund administration of the program from the Integrated Waste Management Account upon appropriation by the Legislature in the annual Budget Act. Funding for the administration of the Recycling Market Development Revolving Loan Program from the Integrated Waste Management Account shall be provided only if there are not sufficient funds in the Recycling Market Development Revolving Loan Account to fully fund administration of the program.

(d) Loans made pursuant to subdivision (c) shall be subject to all of the following requirements:

(1) The terms of any approved loan shall be specified in a loan agreement between the borrower and the board. The loan agreement shall include a requirement that the failure to comply with the agreement shall result in any remaining unpaid amount of

the loan, with accrued interest, being immediately due and payable. Notwithstanding any term of the agreement, any borrower of a loan that the board approves shall repay the principal amount, plus interest on the basis of the rate of return for money in the Pooled Money Investment Account. Except as provided in subdivision (g), all moneys received as repayment and interest on loans under this section shall be deposited in the Recycling Market Development Revolving Loan Account.

(2) The term of any loan under this section shall be not more than 10 years.

(3) The board shall approve only those loan applications which demonstrate the applicant's ability to repay the loan. The highest priority for funding shall be given to projects which demonstrate that there is a market demand for recycling the project's type of postconsumer waste material.

(4) The board shall finance not more than one-half of the cost of any project, or not more than one million dollars ($1,000,000) for loans to any project, whichever is greater.

(5) The Department of Finance may audit the expenditure of the proceeds of any loan made pursuant to this section.

(e) Upon authorization by the Legislature in the annual Budget Act, the Controller shall transfer the sum of five million dollars ($5,000,000) from the Integrated Waste Management Account in the Integrated Waste Management Fund to the Recycling Market Development Revolving Loan Account for the purpose of making loans pursuant to subdivision (c). This amount shall be a loan to the Recycling Market Development Revolving Loan Account, repayable with interest at the rate of return for money in the Pooled Money Investment Account, and shall be repaid on or before July 1, 1997.

(f) The board shall submit a report to the Legislature on the loan program provided for in subdivision (c) on or before January 1, 1996.

(g) This section shall become inoperative on July 1, 1997, and, as of January 1, 1998, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1998, deletes or extends the dates on which it becomes inoperative and is repealed. Notwithstanding this section, any loan outstanding on July 1, 1997, shall be repaid as provided in paragraph (2) of subdivision (d) until repaid in full. Any unexpended funds in the Recycling Market Development Revolving Loan Account on July 1, 1997, shall be transferred to the Integrated Waste Management Account, and any proceeds from loans outstanding on that date shall be deposited in the Integrated Waste Management Account.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to implement the California Integrated Waste Management Act of 1989 and to provide the California Integrated Waste Management Board with the best available information for

that purpose at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1107

An act to amend Section 215.5 of, and to add Section 215.6 to, the Streets and Highways Code, relating to highways.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 215.5 of the Streets and Highways Code is amended to read:

215.5. (a) The department shall develop and implement a system of priorities for ranking the need for installation of noise attenuation barriers along freeways in the California freeway and expressway system. In establishing a priority system, the department shall give the highest consideration to residential areas which were developed prior to the opening of the freeway. If alterations have been made to the freeway since its original opening which result in a significant and measurable increase in ambient noise levels, the opening date for that segment of the freeway, for the purposes of determining priorities under this section, is the completion date of that alteration project. Other criteria for determining priorities shall include the existing and future intensity of sound generated by the freeway, the increase in traffic flow since the original construction of the freeway, the cost of building the soundwall in relation to the expected noise reduction, the number of persons living in close proximity to the freeway, and whether a majority of the occupants in close proximity to the freeway resided there prior to the time the freeway routing was adopted by the commission. The city or county in which the residential area is located shall be responsible for providing documentation to the department on the percentage of original occupants still residing along the freeway.

The actual cost of construction shall be used in determining the relative priority ranking of projects funded and constructed pursuant to subdivision (d).

(b) When all freeways have been ranked in priority order, the department shall, consistent with available funding, include in its proposed state transportation improvement program, a program of construction of noise attenuation barriers beginning with the highest priority.

In preparing the annual priority list, the department shall not add any new project to the list ahead of a project that has been funded by a city or county, or by any other public agency using public funds, and is awaiting state reimbursement pursuant to subdivision (d).

(c) The commission shall include in the estimate adopted pursuant to Section 14525 of the Government Code an annual and five-year estimate of funds estimated to be available for noise attenuation barriers along freeways. If any city or county constructs a noise attenuation barrier along a freeway pursuant to subdivision (d), the commission shall allocate funds for the project in the fiscal year the project would have been eligible for funding based on the department's priority list and the commission's fund estimate at the time of approval of the project pursuant to subdivision (d).

(d) If any city, county, or public agency constructs a noise attenuation barrier along a freeway using public funds prior to the time that the barrier reaches a high enough priority for state funding, then, when the funding priority is reached, the department shall reimburse the city, county, or public agency without interest for the cost of construction, but the reimbursement may not exceed the cost of the department to construct the barriers. Reimbursement shall be made only if the city, county, or public agency constructs the noise attenuation barrier to the standards approved by department, follows bidding and contracting procedures approved by the department, and the project is approved by the commission.

SEC. 2. Section 215.6 is added to the Streets and Highways Code, to read:

215.6. If any city or county contributes at least 33 percent of the estimated cost of any soundwall project included for the first time in the state transportation improvement program in 1992 or in subsequent years, that project shall be given priority over all other soundwall projects to be included for the first time in that state transportation improvement program. If, due to the accelerated priority given a project by this section, two or more projects each qualify for the highest priority, the relative ranking between the two projects shall be determined on the basis of their relative ranking prior to being accelerated.

CHAPTER 1108

An act to amend Sections 21025.2, 31493.5, and 31494.3 of, and to add Sections 19858.7, 22825.16, 31485.5, and 31493.6 to, the Government Code, relating to public employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 19858.7 is added to the Government Code, to read:

19858.7. Notwithstanding Section 19839, upon applying for

retirement, a person entitled to a lump-sum payment for any unused or accumulated annual leave may elect to take all or any portion of that annual leave rather than accept the lump-sum payment on or prior to the effective date of retirement.

SEC. 2. Section 21025.2 of the Government Code, is amended to read:

21025.2. Notwithstanding any other provision of this article, the retirement of a member who has been granted or is entitled to sick leave or who is entitled to compensating time off for overtime, shall not become effective until the expiration of the sick leave with compensation and the expiration of the compensating time off with compensation, unless the member applies for or consents to his or her retirement as of an earlier date, or unless, with respect to sick leave, the provisions of a local ordinance or resolution or the rules or regulations of the employer provide to the contrary. This section shall also be applicable to a state member who participates in the annual leave program and who has been granted annual leave for the reasons applicable to sick leave.

SEC. 3. Section 22825.16 is added to the Government Code, to read:

22825.16. A health benefit plan offered by employee organizations pursuant to Section 22790 may rebate funds to active employees enrolled in a prudent buyer basic plan in order to ensure that employee out-of-pocket health contributions during the 1991–92 contract year shall not exceed the employee's out-of-pocket contribution in the 1990–91 contract year. The amount of the monthly rebate shall not exceed fifteen dollars and thirty-three cents ($15.33) for the employee only, fifteen dollars and nineteen cents ($15.19) for the employee and one dependent, or twenty-two dollars and fifty cents ($22.50) for the employee and two or more dependents. These amounts shall not reduce the employee contribution below the employee out-of-pocket costs during the 1990–91 contract year. The rebate shall apply only to active employees enrolled in the prudent buyer basic plan who are not eligible for the subsidy provided by Section 22825.01. The payments shall be made from the special reserves of the health benefits trust fund for that health benefit plan. The amount of funds shall be limited to that portion of special reserves which is in excess of the amount necessary to fund the risk up to the reinsurance attachment level for the 1991–92 contract year. Administrative costs incurred by the state shall be reimbursed by the health benefits trust fund for that health benefit plan.

SEC. 3.5. Section 31485.5 is added to the Government Code, to read:

31485.5. It is the intent of the Legislature that counties that are considering the adoption of defined contribution plans, also consider having those plans administered by their county retirement systems.

SEC. 4. Section 31493.5 of the Government Code is amended to read:

31493.5. (a) Any person employed who qualifies as a member shall certify to the board his or her election to be covered by the retirement plan established by this article or to be covered by the retirement provisions and benefits otherwise available to members as of the date of employment. Any person who dies prior to certifying his or her election or who fails to certify his or her election within the period set forth in subdivision (b) shall, as of the date of death or the day immediately following the last day to certify his or her election, be deemed to have elected to be covered by the retirement plan established by this article.

(b) The election required to be made by subdivision (a) shall be certified to the board:

(1) Within 30 days of employment if written disclosure materials are provided by the employer pursuant to subdivision (c) within 14 days of employment, or

(2) Within 30 days of the receipt of written disclosure materials provided by the employer if the employer fails to provide written disclosure materials within 14 days of employment as required by subdivision (c).

(c) The employer shall, within 14 days of the date of employment, provide to each person who qualifies as a member, written disclosure materials of the elements of each of the available retirement plans.

(d) This section shall be applicable to persons eligible for general membership in Plans D and E who become employed on or after January 1, 1991, and prior to January 1, 1992, and to persons who were employed prior to January 1, 1991, who first became eligible for membership on or after January 1, 1991, and before January 1, 1992.

SEC. 5. Section 31493.6 is added to the Government Code, to read:

31493.6. (a) Any person who qualifies as a member, and who has not elected to be covered by the retirement provisions and benefits available to members, shall become a member of the plan established by this article as of the first day of the month following the date of employment or date of eligibility for membership. Any person who dies prior to certifying his or her election shall be deemed to have elected to be covered by the retirement plan established by this article.

(b) The employer shall, within 14 days of the date of employment or eligibility for membership, provide to each person who qualifies as a member, written disclosure materials of the elements of each of the available retirement plans.

(c) Any person who has been enrolled in the plan provided for in this article pursuant to subdivision (a) may elect to be covered by any other retirement plan to which he or she is otherwise eligible, provided that the election is made in writing and filed with the board within 60 days from his or her beginning date of employment or eligibility for membership, or within 45 days after receipt from the employer of the materials required by subdivision (b), whichever is later. Any person who makes the election shall be deemed to be a

member of the elected plan as of the first day of the month following the date of employment or eligibility, and the county auditor shall make appropriate deductions from the member's future salary warrant to cover the member's contributions applicable to the period that the member was deemed to be included in the plan covered by this article.

(d) This section shall be applicable to persons eligible for general membership who become employed on or after January 1, 1992, and to persons who were employed prior to January 1, 1992, but who did not become eligible for membership until January 1, 1992, or later.

SEC. 6. Section 31494.3 of the Government Code is amended to read:

31494.3. (a) Members who have elected to transfer under Section 31494.1 shall be provided within 90 days of the election date the cost of contributions required for that period of all creditable service with the employer prior to the month for which monthly contributions are to commence, as prescribed in subdivision (f) of Section 31494.1, and shall deposit in the retirement fund, the amount hereinafter provided in this subdivision, by lump sum, or regular monthly installments, or both, over the period of time determined by a resolution adopted by a majority vote of the board of retirement, but in any event prior to the date of application for retirement, date of termination, or death. The amount shall equal the sum of the contributions a member would have made to the retirement fund for that length of time as that for which the member shall receive credit as service, computed in accordance with the rate of contribution applicable to the member under the contributory plan, based upon entry age, and in the same manner as prescribed under the plan as if the plan had been in effect during the entire period of all creditable service, together with regular interest thereon.

(b) Any member who applies for service credit under subdivision (e) of Section 31494.1 relating to federal and military service, shall be provided within 90 days of the election date the cost of contribution required for that service, and shall deposit in the retirement fund the amount hereinafter provided in this subdivision by lump sum, or regular monthly installments, or both, over the period of time determined by a resolution adopted by a majority vote of the board of retirement, but in any event prior to the date of application for retirement, date of termination, or death. The amount shall equal the sum of twice the contributions the member would have made to the retirement fund for the length of time as that for which the member has elected to receive credit as service, computed by applying the rate of contribution applicable to the member under the contributory plan, based upon entry age, to the monthly compensation first earnable by the member as of the most recent date of entry into the retirement system, multiplied by the number of months for which the member has elected to receive credit, together with regular interest thereon.

(c) Any member who applies for service credit under subdivision

(e) of Section 31494.1, relating to prior service as defined in the bylaws of the board and public service other than military and federal service, shall be provided within 90 days of the election date the cost of contribution required for that service, and shall deposit in the retirement fund the amount hereinafter provided in this subdivision, by lump sum or regular monthly installments, or both, over the period of time determined by a resolution adopted by a majority vote of the board of retirement, but in any event prior to the date of application for retirement, date of termination, or death. The amount shall equal that sum of contributions the member would have made to the retirement fund for the length of time as that for which the member has elected to receive credit as service, calculated in the same manner as prescribed in the bylaws of the board relating to credit for prior service, except that such contribution shall be computed by applying the rate of contribution applicable to the member under the contributory plan, based upon entry age.

(d) This section shall be operative in a county at such time or times as may be mutually agreed to in memoranda of understanding executed by the employer and employee representatives if the board of supervisors adopts, by majority vote, a resolution declaring that the section shall be operative in the county.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the programs specified in this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that certain retirement administration problems be clarified and that employees and their families be able to continue to participate in their health plans, this act must take effect immediately.

CHAPTER 1109

An act to add Section 904.4 to the Penal Code, relating to crimes.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 904.4 is added to the Penal Code, to read:

904.4. (a) In any county having a population of more than 370,000 but less than 400,000 as established by Section 28020 of the Government Code, the presiding judge of the superior court, upon application by the district attorney, may order and direct the drawing and impanelment at any time of one additional grand jury.

(b) The presiding judge may select persons, at random, from the list of trial jurors in civil and criminal cases and shall examine them to determine if they are competent to serve as grand jurors. When a sufficient number of competent persons have been selected, they shall constitute the additional grand jury.

(c) Any additional grand jury which is impaneled pursuant to this section may serve for a period of one year from the date of impanelment, but may be discharged at any time within the one-year period by order of the presiding judge. In no event shall more than one additional grand jury be impaneled pursuant to this section at the same time.

(d) Whenever an additional grand jury is impaneled pursuant to this section, it may inquire into any matters that are subject to grand jury inquiry and shall have the sole and exclusive jurisdiction to return indictments, except for any matters that the regular grand jury is inquiring into at the time of its impanelment.

(e) If an additional grand jury is also authorized by another section, the county may impanel the additional grand jury authorized by this section, or by the other section, but not both.

CHAPTER 1110

An act to amend Sections 53313, 53313.4, 53313.5, 53313.9, 53314, 53314.8, 53316.2, 53317.3, 53318.5, 53321, 53322, 53325, 53326, 53328.5, 53338, 53339, 53339.2, 53339.3, 53339.4, 53339.6, 53339.7, 53339.8, 53340, 53341.5, 53345, 53345.3, 53350, 53353.5, 53356, 53356.1, 53356.3, 53356.4, 53358, 53361.4, and 53381 of, to add Section 53356.05 to, and to repeal and add Section 53365 of, the Government Code, to amend Section 5471 of the Health and Safety Code, and to amend Sections 3110, 3114.5, 3117.5, 36501, 36502, 36508, 36509, 36513, 36523, 36525, 36526, 36527, 36530, and 36535 of, and to add Sections 3110.5, 3113.5, and 36521.5 to, the Streets and Highways Code, relating to community facilities.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 53313 of the Government Code is amended to read:

53313. A community facilities district may be established under this chapter to finance any one or more of the following types of services within an area:

(a) Police protection services, including, but not limited to, criminal justice services. However, criminal justice services shall be limited to providing services for jails, detention facilities, and juvenile halls.

(b) Fire protection and suppression services, and ambulance and paramedic services.

(c) Recreation program services, library services, and the operation and maintenance of museums and cultural facilities. A special tax may be levied for this purpose only upon approval of the voters as specified in subdivision (b) of Section 53328. However, the requirement contained in subdivision (b) of Section 53328 that a certain number of persons have been registered to vote for each of the 90 days preceding the close of the protest hearing does not apply to an election to enact a special tax for recreation program services, library services, and the operation and maintenance of museums and cultural facilities subject to subdivision (c) of Section 53326.

(d) Maintenance of parks, parkways, and open space.

(e) Flood and storm protection services, including, but not limited to, the operation and maintenance of storm drainage systems.

(f) Services with respect to removal or remedial action for the cleanup of any hazardous substance released or threatened to be released into the environment. As used in this subdivision, the terms "remedial action" and "removal" shall have the meanings set forth in Sections 25322 and 25323, respectively, of the Health and Safety Code, and the term "hazardous substance" shall have the meaning set forth in Section 25281 of the Health and Safety Code. Community facilities districts shall provide the State Department of Health Services and local health and building departments with notification of any cleanup activity pursuant to this subdivision at least 30 days prior to commencement of the activity.

A community facilities district tax approved by vote of the landowners of the district may only finance the services authorized in this section to the extent that they are in addition to those provided in the territory of the district before the district was created. The additional services may not supplant services already available within that territory when the district was created.

SEC. 2. Section 53313.4 of the Government Code is amended to read:

53313.4. Any territory within a community facilities district established for the acquisition or improvement of school facilities for a school district shall be exempt from any fee, increase in any fee other than a cost-of-living increase as authorized by law, or other requirement first levied, increased, or imposed subsequent to the date on which the resolution of formation creating the community facilities district is adopted under Section 53080, or under Chapter 4.7 (commencing with Section 65970) of Division 1 of Title 7, by or to benefit any other school district, except as otherwise negotiated between the school districts. That exemption shall apply until a date 10 years following the most recent issuance of bonds by the community facilities district or, if no bonds have ever been issued by the community facilities district, a date 10 years following the formation of the community facilities district or until the school district applies for state funding as provided in subdivision (d) of Section 17705.6.

SEC. 2.5. Section 53313.5 of the Government Code is amended to read:

53313.5. A community facilities district may also finance the purchase, construction, expansion, improvement, or rehabilitation of any real or other tangible property with an estimated useful life of five years or longer or may finance planning and design work which is directly related to the purchase, construction, expansion, or rehabilitation of any real or tangible property. The facilities need not be physically located within the district. A district may not lease out facilities which it has financed except pursuant to a lease agreement or annexation agreement entered into prior to January 1, 1988. A district may only finance the purchase of facilities whose construction has been completed, as determined by the legislative body, before the resolution of formation to establish the district is adopted pursuant to Section 53325.1, except that a district may finance the purchase of facilities completed after the adoption of the resolution of formation if the facility was constructed as if it had been constructed under the direction and supervision, or under the authority of, the local agency. For example, a community facilities district may finance facilities, including, but not limited to, the following:

(a) Local park, recreation, parkway, and open-space facilities.

(b) Elementary and secondary schoolsites and structures provided that the facilities meet the building area and cost standards established by the State Allocation Board.

(c) Libraries.

(d) Child care facilities, including costs of insuring the facilities against loss, liability insurance in connection with the operation of the facility, and other insurance costs relating to the operation of the facilities, but excluding all other operational costs. However, the proceeds of bonds issued pursuant to this chapter shall not be used to pay these insurance costs.

(e) The district may also finance the construction or

undergrounding of water transmission and distribution facilities, natural gas pipeline facilities, telephone lines, facilities for the transmission or distribution of electrical energy, and cable television lines to provide access to those services to customers who do not have access to those services or to mitigate existing visual blight. The district may enter into an agreement with a public utility to utilize those facilities to provide a particular service and for the conveyance of those facilities to the public utility. If the facilities are conveyed to the public utility, the agreement shall provide for a refund by the public utility to the district or improvement area thereof for the cost of the facilities. Any reimbursement made to the district shall be utilized to reduce or minimize the special tax levied within the district or improvement area, or to construct or acquire additional facilities within the district or improvement area, as specified in the resolution of formation.

(f) The district may also finance the acquisition, improvement, rehabilitation, or maintenance of any real or other tangible property, whether privately or publicly owned, for the purposes described in subdivision (e) of Section 53313.

(g) The district may also pay in full all amounts necessary to eliminate any fixed special assessment liens or to pay, repay, or defease any obligation to pay or any indebtedness secured by any tax, fee, charge, or assessment levied within the area of a community facilities district or may pay debt service on that indebtedness. In addition, tax revenues of a district may be used to make lease or debt service payments on any lease, lease-purchase contract, or certificate of participation used to finance authorized district facilities.

(h) Any other governmental facilities which the legislative body creating the community facilities district is authorized by law to contribute revenue to, or construct, own, or operate. However, the district shall not operate or maintain or, except as otherwise provided in subdivisions (e) and (f), have any ownership interest in any facilities for the transmission or distribution of natural gas, telephone service, or electrical energy.

(i) (1) A district may also pay for the following:

(A) Work deemed necessary to bring buildings, including privately owned buildings, into compliance with seismic safety standards or regulations. Only work certified as necessary to comply with seismic safety standards or regulations by local building officials may be financed. No project involving the dismantling of an existing building and its replacement by a new building, nor the construction of a new or substantially new building may be financed pursuant to this subparagraph. Work on qualified historical buildings or structures shall be done in accordance with the State Historical Building Code (Part 2.7 (commencing with Section 18950) of Division 13 of the Health and Safety Code).

(B) In addition, within counties designated by the President of the United States as disaster areas, a district may also pay for any work deemed necessary to reconstruct, repair, shore up, or replace

any building damaged or destroyed by the earthquake which occurred on October 17, 1989, or by its aftershocks. Work may be financed pursuant to this subparagraph only on buildings identified in a resolution of intention to establish a community facilities district adopted prior to October 17, 1994.

(2) Work on privately owned buildings, including reconstruction or replacement of privately owned buildings pursuant to this subdivision, may only be financed by a tax levy if all of the votes cast on the question of levying the tax, vote in favor of levying the tax. Any district created to finance seismic safety work on privately owned buildings, including reconstruction or replacement of privately owned buildings pursuant to this subdivision, shall consist only of lots or parcels on which the legislative body finds that the buildings to be worked on, reconstructed, or replaced, pursuant to this subdivision, are located or were located before being damaged or destroyed by the October 17, 1989, earthquake or its aftershocks.

SEC. 2.7. Section 53313.5 of the Government Code is amended to read:

53313.5. A community facilities district may also finance the purchase, construction, expansion, improvement, or rehabilitation of any real or other tangible property with an estimated useful life of five years or longer or may finance planning and design work which is directly related to the purchase, construction, expansion, or rehabilitation of any real or tangible property. The facilities need not be physically located within the district. A district may not lease out facilities which it has financed except pursuant to a lease agreement or annexation agreement entered into prior to January 1, 1988. A district may only finance the purchase of facilities whose construction has been completed, as determined by the legislative body, before the resolution of formation to establish the district is adopted pursuant to Section 53325.1, except that a district may finance the purchase of facilities completed after the adoption of the resolution of formation if the facility was constructed as if it had been constructed under the direction and supervision, or under the authority of, the local agency. For example, a community facilities district may finance facilities, including, but not limited to, the following:

(a) Local park, recreation, parkway, and open-space facilities.

(b) Elementary and secondary schoolsites and structures provided that the facilities meet the building area and cost standards established by the State Allocation Board.

(c) Libraries.

(d) Child care facilities, including costs of insuring the facilities against loss, liability insurance in connection with the operation of the facility, and other insurance costs relating to the operation of the facilities, but excluding all other operational costs. However, the proceeds of bonds issued pursuant to this chapter shall not be used to pay these insurance costs.

(e) The district may also finance the construction or

undergrounding of water transmission and distribution facilities, natural gas pipeline facilities, telephone lines, facilities for the transmission or distribution of electrical energy, and cable television lines to provide access to those services to customers who do not have access to those services or to mitigate existing visual blight. The district may enter into an agreement with a public utility to utilize those facilities to provide a particular service and for the conveyance of those facilities to the public utility. If the facilities are conveyed to the public utility, the agreement shall provide for a refund by the public utility to the district or improvement area thereof for the cost of the facilities. Any reimbursement made to the district shall be utilized to reduce or minimize the special tax levied within the district or improvement area, or to construct or acquire additional facilities within the district or improvement area, as specified in the resolution of formation.

(f) The district may also finance the acquisition, improvement, rehabilitation, or maintenance of any real or other tangible property, whether privately or publicly owned, for the purposes described in subdivision (e) of Section 53313.

(g) The district may also pay in full all amounts necessary to eliminate any fixed special assessment liens or to pay, repay, or defease any obligation to pay or any indebtedness secured by any tax, fee, charge, or assessment levied within the area of a community facilities district or may pay debt service on that indebtedness. In addition, tax revenues of a district may be used to make lease or debt service payments on any lease, lease purchase contract, or certificate of participation used to finance authorized district facilities.

(h) Any other governmental facilities which the legislative body creating the community facilities district is authorized by law to contribute revenue to, or construct, own, or operate. However, the district shall not operate or maintain or, except as otherwise provided in subdivisions (e) and (f), have any ownership interest in any facilities for the transmission or distribution of natural gas, telephone service, or electrical energy.

(i) (1) A district may also pay for the following:

(A) Work deemed necessary to bring buildings, including privately owned buildings, into compliance with seismic safety standards or regulations. Only work certified as necessary to comply with seismic safety standards or regulations by local building officials may be financed. No project involving the dismantling of an existing building and its replacement by a new building, nor the construction of a new or substantially new building may be financed pursuant to this subparagraph. Work on qualified historical buildings or structures shall be done in accordance with the State Historical Building Code (Part 2.7 (commencing with Section 18950) of Division 13 of the Health and Safety Code).

(B) In addition, within counties designated by the President of the United States as disaster areas, a district may also pay for any work deemed necessary to reconstruct, repair, shore up, or replace

any building damaged or destroyed by the earthquake which occurred on October 17, 1989, or by its aftershocks. Work may be financed pursuant to this subparagraph only on buildings identified in a resolution of intention to establish a community facilities district adopted prior to October 17, 1994.

(2) Work on privately owned buildings, including reconstruction or replacement of privately owned buildings pursuant to this subdivision, may only be financed by a tax levy if all of the votes cast on the question of levying the tax, vote in favor of levying the tax. Any district created to finance seismic safety work on privately owned buildings, including reconstruction or replacement of privately owned buildings pursuant to this subdivision, shall consist only of lots or parcels on which the legislative body finds that the buildings to be worked on, reconstructed, or replaced, pursuant to this subdivision, are located or were located before being damaged or destroyed by the October 17, 1989, earthquake or its aftershocks.

(j) (1) A district may also pay for the following:

(A) Work deemed necessary to repair and abate damage caused to privately owned buildings and structures by soil deterioration. "Soil deterioration" means a chemical reaction by soils that causes structural damage or defects in construction materials including concrete, steel, and ductile or cast iron. Only work certified as necessary by local building officials may be financed. No project involving the dismantling of an existing building or structure and its replacement by a new building or structure, nor the construction of a new or substantially new building or structure may be financed pursuant to this subparagraph.

(B) Work on privately owned buildings and structures pursuant to this subdivision, including reconstruction, repair, and abatement of damage caused by soil deterioration, may only be financed by a tax levy if all of the votes cast on the question of levying the tax vote in favor of levying the tax. Any district created to finance the work on privately owned buildings or structures, including reconstruction, repair, and abatement of damage caused by soil deterioration, shall consist only of lots or parcels on which the legislative body finds that the buildings or structures to be worked on pursuant to this subdivision suffer from soil deterioration.

SEC. 3. Section 53313.9 of the Government Code is amended to read:

53313.9. (a) All or any part of the cost of any school facilities financed by a community facilities district may be shared by the State Allocation Board pursuant to Section 17718.5 of the Education Code.

(b) If the State Allocation Board shares in any part of the cost of the school facilities, the ownership of those facilities and the real property upon which the facilities are located shall be transferred to the State of California. A copy of the deed by which the title is transferred shall be recorded in the office of the county recorder of the county in which the property is located. The deed shall be

indexed by the county recorder in the grantor-grantee index to the name of the school district as grantor and to the State of California as grantee. In addition, the community facilities district shall take one or more of the following actions:

(1) Reduce the amount of bonds authorized to be issued by the community facilities district by an amount not to exceed the amount that the State Allocation Board contributes to the project.

(2) Reduce the rate of any special tax which is levied within the community facilities district to reflect the amount that the State Allocation Board contributes to the project.

(3) Reduce the amount of outstanding bonds or provide for the defeasance of outstanding bonds by an amount not to exceed the amount that the State Allocation Board contributes to the project.

(4) Shorten the period of time during which a special tax is levied within the community facilities district to reflect the reduced funding needs resulting from the amount that the State Allocation Board contributes to the project.

(c) Any reductions pursuant to subdivision (b) shall be consistent with the provisions of the resolutions of intention, formation, consideration, and to incur bonded indebtedness, adopted pursuant to Sections 53320, 53321, 53325.1, 53334, and 53345. The legislative body may, by resolution, reduce the special tax or the amount of outstanding bonds in a manner consistent with the provisions of this section.

SEC. 4. Section 53314 of the Government Code is amended to read:

53314. The legislative body may from time to time transfer moneys to a community facilities district or to an improvement area within a community facilities district, for the benefit of the district or improvement area, from any funds available to the legislative body. Any moneys so transferred may be used for the payment of any currently payable expenses incurred by reason of the construction or acquisition of any facilities or provision of any authorized services within the district or improvement area prior to December 1 of the first fiscal year in which a special tax may be levied for the facilities or services within the district or improvement area. The rate of interest earned by the investment of those moneys shall be determined by the legislative body.

SEC. 5. Section 53314.8 of the Government Code is amended to read:

53314.8. At any time either before or after the formation of the district, the legislative body may provide, by ordinance, that for a period specified in the ordinance, the local agency may contribute, from any source of revenue not otherwise prohibited by law, any specified amount, portion, or percentage of the revenues for the purposes set forth in the ordinance, limited to the following: the acquisition or construction of a facility, the acquisition of interest in real property, or the payment of debt service with respect to the financing of either, the provision of authorized services, and the

payment of expenses incidental thereto. The contribution shall not constitute an indebtedness or liability of the local agency.

SEC. 6. Section 53316.2 of the Government Code is amended to read:

53316.2. (a) At any time prior to the adoption of the resolution of formation creating a community facilities district the legislative bodies of two or more local agencies may enter into a joint community facilities agreement pursuant to this section and Sections 53316.4 and 53316.6 or into a joint exercise of powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 to exercise any power authorized by this chapter with respect to the community facilities district being created if the legislative body of each entity adopts a resolution declaring that such a joint agreement would be beneficial to the residents of that entity.

(b) Notwithstanding Chapter 5 (commencing with Section 6500) of Division 7 of Title 1, a contracting party may use the proceeds of any special tax or charge levied pursuant to this chapter or of any bonds or other indebtedness issued pursuant to this chapter to provide facilities or services which that contracting party is otherwise authorized by law to provide, even though another contracting party does not have the power to provide those facilities or services.

(c) Notwithstanding subdivision (a), nothing in this section shall prevent amendment of a joint community facilities agreement or a joint exercise of powers agreement, after adoption of a resolution of formation, if the amendment is necessary, as determined by the legislative body, to allow an orderly transition of governmental facilities and finances in the case of any change in governmental organization approved pursuant to the Cortese-Knox Local Government Reorganization Act of 1985 (Division 1 (commencing with Section 56000) of Title 6).

SEC. 6.5. Section 53317.3 of the Government Code is amended to read:

53317.3. If property not otherwise exempt from a special tax levied pursuant to this chapter is acquired by a public entity through a negotiated transaction, or by gift or devise, the special tax shall, notwithstanding Section 53340, continue to be levied on the property acquired and shall be enforceable against the public entity that acquired the property. However, even if the resolution of formation that authorized creation of the district did not specify conditions under which the obligation to pay a special tax may be prepaid and permanently satisfied, the legislative body of the local agency that created the district may specify conditions under which the public agency that acquires the property may prepay and satisfy the obligation to pay the tax. The conditions may be specified only if the local agency that created the district finds and determines that the prepayment arrangement will fully protect the interests of the owners of the district's bonds.

SEC. 7. Section 53318.5 of the Government Code is amended to

read:

53318.5. Notwithstanding any provision of Part 1 (commencing with Section 56000) of Division 3, a local agency formation commission shall have no power or duty to review and approve or disapprove a proposal to create a community facilities district or a proposal to annex territory to, or detach territory from, such district, pursuant to this chapter.

SEC. 8. Section 53321 of the Government Code is amended to read:

53321. Proceedings for the establishment of a community facilities district shall be instituted by the adoption of a resolution of intention to establish the district which shall do all of the following:

(a) State that a community facilities district is proposed to be established under the terms of this chapter and describe the boundaries of the territory proposed for inclusion in the district, which may be accomplished by reference to a map on file in the office of the clerk, showing the proposed community facilities district. The boundaries of the territory proposed for inclusion in the district shall include the entirety of any parcel subject to taxation by the proposed district.

(b) State the name proposed for the district in substantially the following form: "Community Facilities District No. _____."

(c) State the type or types of public facilities and services proposed to be financed by the district pursuant to this chapter. If the purchase of completed public facilities or the incurring of incidental expenses is proposed, the resolution shall identify those facilities or expenses. If facilities are proposed to be financed through any lease, lease-purchase, or installment-purchase arrangement, the resolution shall briefly describe the proposed arrangement.

(d) State that, except where funds are otherwise available, a special tax sufficient to pay for all facilities and services, secured by recordation of a continuing lien against all nonexempt real property in the district, will be annually levied within the area. The resolution shall specify the rate, method of apportionment, and manner of collection of the special tax in sufficient detail to allow each landowner or resident within the proposed district to estimate the maximum amount that he or she will have to pay. The legislative body may specify conditions under which the obligation to pay the specified special tax may be prepaid and permanently satisfied. The legislative body may specify conditions under which the rate of the special tax may be permanently reduced in compliance with the provisions of Section 53313.9.

(e) Fix a time and place for a public hearing on the establishment of the district which shall be not less than 30 or more than 60 days after the adoption of the resolution.

(f) Describe any adjustment in property taxation to pay prior indebtedness pursuant to Sections 53313.6 and 53313.7.

(g) A description of the proposed voting procedure.

SEC. 9. Section 53322 of the Government Code is amended to

read:

53322. (a) The clerk of the legislative body shall publish a notice of the hearing pursuant to Section 6061 in a newspaper of general circulation published in the area of the proposed district. Publication shall be complete at least seven days prior to the date of the hearing.

(b) The notice shall contain all of the following information:

(1) The text or a summary of the resolution of intention to establish the district which may refer to documents on file in the office of the clerk for detail.

(2) The time and place of the hearing on the establishment of the district.

(3) A statement that at the hearing the testimony of all interested persons or taxpayers for or against the establishment of the district, the extent of the district, or the furnishing of specified types of public facilities or services will be heard. The notice shall also describe, in summary, the effect of protests made by registered voters or landowners against the establishment of the district, the extent of the district, the furnishing of a specified type of facilities or services, or a specified special tax, as provided in Section 53324.

(4) A description of the proposed voting procedure.

SEC. 10. Section 53325 of the Government Code is amended to read:

53325. The hearing may be continued from time to time, but shall be completed within 30 days, except that if the legislative body finds that the complexity of the proposed district or the need for public participation requires additional time, the hearing may be continued from time to time for a period not to exceed six months. The legislative body may modify the resolution of intention by eliminating proposed facilities or services, or by changing the rate or method of apportionment of the proposed special tax so as to reduce the maximum special tax for all or a portion of the owners of property within the proposed district, or by removing territory from the proposed district. Any modifications shall be made by action of the legislative body at the public hearing. If the legislative body proposes to modify the resolution of intention in a way that will increase the probable special tax to be paid by the owner of any lot or parcel, it shall direct that a report be prepared that includes a brief analysis of the impact of the proposed modifications on the probable special tax to be paid by the owners of lots or parcels in the district, and shall receive and consider the report before approving the modifications or any resolution of formation which includes those modifications. At the conclusion of the hearing, the legislative body may abandon the proposed establishment of the community facilities district or may, after passing upon all protests, determine to proceed with establishing the district.

SEC. 11. Section 53326 of the Government Code is amended to read:

53326. (a) The legislative body shall then submit the levy of any special taxes to the qualified electors of the proposed community

facilities district subject to the levy or to the qualified electors of the territory to be annexed by the community facilities district subject to the levy in the next general election or in a special election to be held, notwithstanding any other requirement, including any requirement that elections be held on specified dates, contained in the Elections Code, at least 90 days, but not more than 180 days, following the adoption of the resolution of formation. The legislative body shall provide the resolution of formation, a certified map of sufficient scale and clarity to show the boundaries of the district, and a sufficient description to allow the election official to determine the boundaries of the district to the official conducting the election within three business days after the adoption of the resolution of formation. Assessor's parcel numbers for the land within the district shall be included if it is a landowner election or the district does not conform to an existing district's boundaries and if requested by the official conducting the election. If the election is to be held less than 125 days following the adoption of the resolution of formation, the concurrence of the election official conducting the election shall be required. However, any time limit specified by this section or requirement pertaining to the conduct of the election may be waived with the unanimous consent of the qualified electors of the proposed district and the concurrence of the election official conducting the election.

(b) Except as otherwise provided in subdivision (c), if at least 12 persons, who need not necessarily be the same 12 persons, have been registered to vote within the territory of the proposed community facilities district for each of the 90 days preceding the close of the protest hearing, the vote shall be by the registered voters of the proposed district, with each voter having one vote. Otherwise, the vote shall be by the landowners of the proposed district and each landowner who is the owner of record at the close of the protest hearing, or the authorized representative thereof, shall have one vote for each acre or portion of an acre of land that he or she owns within the proposed community facilities district. The number of votes to be voted by a particular landowner shall be specified on the ballot provided to that landowner. If the vote is by landowners pursuant to this subdivision, the legislative body shall determine that any facilities financed by the district are necessary to meet increased demands placed upon local agencies as the result of development or rehabilitation occurring in the district.

(c) If the proposed special tax will not be apportioned in any tax year on any portion of property in residential use in that tax year, as determined by the legislative body, the legislative body may provide that the vote shall be by the landowners of the proposed district whose property would be subject to the tax if it were levied at the time of the election. Each of these landowners shall have one vote for each acre, or portion thereof, that the landowner owns within the proposed district which would be subject to the proposed tax if it were levied at the time of the election.

(d) Ballots for the special election authorized by subdivision (a) may be distributed to qualified electors by mail with return postage prepaid or by personal service by the election official. The official conducting the election may certify the proper mailing of ballots by an affidavit, which shall constitute conclusive proof of mailing in the absence of fraud. The voted ballots shall be returned to the election officer conducting the election not later than the hour specified in the resolution calling the election. However, if all the qualified voters have voted, the election may be closed with the concurrence of the official conducting the election.

SEC. 12. Section 53328.5 of the Government Code is amended to read:

53328.5. Division 4.5 (commencing with Section 3100) of the Streets and Highways Code applies with respect to any proceedings undertaken pursuant to this chapter. This chapter is a "principal act" as that term is defined in Section 3100 of the Streets and Highways Code. In all cases in which special taxes have been approved by the qualified electors pursuant to this chapter prior to January 1, 1989, the legislative body may direct the clerk of the legislative body to impose a lien for the special tax on nonexempt real property within the district by performing the filings required by Division 4.5 (commencing with Section 3100) of the Streets and Highways Code, and the county recorder shall accept those filings and may charge the clerk a fee for recording and indexing those documents pursuant to Section 3116 of the Streets and Highways Code. The failure of the clerk or recorder to perform the filings shall not subject the local agency or any of its officers or employees to civil liability.

SEC. 13. Section 53338 of the Government Code is amended to read:

53338. (a) The hearing may be continued from time to time, but shall be completed within 30 days, except that if the legislative body finds that the complexity of the proposed changes or the need for public participation requires additional time, the hearing may be continued from time to time for a period not to exceed six months. At the conclusion of the hearing the legislative body may abandon the proceedings or may, after passing upon all protests, submit the question of levying a new special tax or of changing the rate or method of apportionment of an existing special tax or of changing the types of facilities and services to be financed by the district, or any combination, to the qualified electors of the district as specified in Article 2 (commencing with Section 53318).

(b) After the canvass of any election conducted pursuant to this section, the legislative body shall determine that the proposed levy of a new special tax or of changes in the types of facilities and services to be financed by the district, or any combination, have full legal effect, if two-thirds of the votes cast on the proposition are in favor of the proposed levy or changes.

(c) Upon a determination by the legislative body that the proposed levy or changes have full legal effect, the clerk of the

legislative body shall record notice of the changes pursuant to Section 3117.5 of the Streets and Highways Code.

SEC. 13.5. Section 53339 of the Government Code is amended to read:

53339. The legislative body of a community facilities district may annex territory to an existing community facilities district as provided in this article. The annexed territory need not be contiguous to territory included in the existing community facilities district. The territory proposed to be annexed to the community facilities district may be territory located outside the territorial limits of the agency which formed the community facilities district provided that the territory to be annexed to the community facilities district will be annexed to the respective agency prior to, or concurrently with, the annexation of the subject territory to the community facilities district and, if the annexation of the subject territory to the respective agency is not completed, the subject territory shall not be annexed to the community facilities district. The legislative body of the community facilities district shall not adopt a resolution of intention pursuant to Section 53339.2 if the territory proposed to be annexed includes territory which is outside the territorial limits of the agency which formed the community facilities district unless an initial action, petition, or filing for the annexation of that territory to the respective agency has been adopted or filed, as appropriate.

SEC. 14. Section 53339.2 of the Government Code is amended to read:

53339.2. If the legislative body of a community facilities district determines that public convenience and necessity require that territory be added to an existing community facilities district, or if the voters residing within certain territory or landowners request the legislative body to include territory within the district, the legislative body may adopt a resolution of intention to annex the territory or to provide for future annexation of the territory.

SEC. 15. Section 53339.3 of the Government Code is amended to read:

53339.3. The resolution of intention to annex the territory or to provide for future annexation of territory shall do all of the following:

(a) State the name of the existing community facilities district.

(b) Generally describe the territory included in the existing district and the territory proposed to be annexed. As an alternative, the resolution may identify territory proposed for annexation in the future, with the condition that parcels within that territory may be annexed only with the unanimous approval of the owner or owners of each parcel or parcels at the time that parcel or those parcels are annexed.

(c) Specify the types of public facilities and services provided pursuant to this chapter in the existing district and the types of public facilities and services to be provided in the territory proposed to be annexed or to be annexed in the future; and include a plan for

sharing facilities and providing services that will be provided in common within the existing district and the territory proposed to be annexed or to be annexed in the future.

(d) Specify any special taxes which would be levied within the territory proposed to be annexed or to be annexed in the future to pay for public facilities and services provided pursuant to this chapter within that territory. A special tax proposed to pay for services to be supplied within the territory proposed to be annexed or to be annexed in the future shall be equal to any special tax levied to pay for the same services in the existing district, except that a higher or lower tax may be levied within the territory proposed to be annexed or to be annexed in the future to the extent that the actual cost of providing the services in that territory is higher or lower than the cost of providing those services in the existing district. A special tax proposed to pay for public facilities financed with bonds secured by the existing community facilities district shall be the same as the tax levied in the existing district for that purpose, except that a higher special tax may be levied for that purpose within the territory proposed to be annexed or to be annexed in the future to compensate for the interest and principal previously paid by the existing community facilities district, less any depreciation allocable to the public facility.

(e) Specify any alteration in the special tax rate levied within the existing community facilities district as a result of the proposed annexation. The maximum tax rate in the existing community facilities district may not be increased as a result of proceedings pursuant to this article.

(f) Fix a time and place for a hearing upon the resolution which shall not be less than 30 nor more than 60 days after the adoption by the legislative body of the resolution of intention to annex territory or to provide for future annexation of territory pursuant to Section 53339.2.

SEC. 16. Section 53339.4 of the Government Code is amended to read:

53339.4. The clerk of the legislative body shall give notice of the hearing in the same manner and within the same time as provided for the giving of notice of a hearing on a resolution of intention to establish a community facilities district, as required by Section 53322. Notice pursuant to Section 53322.4 may be mailed to the registered voters and landowners within the territory proposed to be annexed or proposed to be annexed in the future.

The notice shall do all of the following:

(a) Contain the text or a summary of the resolution.

(b) State the time and place for the hearing.

(c) State that at the hearing the testimony of all interested persons for or against the annexation of territory or the future annexation of territory to the community facilities district or the levying of special taxes within the territory proposed to be annexed or proposed to be annexed in the future will be heard.

SEC. 17. Section 53339.6 of the Government Code is amended to read:

53339.6. If 50 percent or more of the registered voters, or six registered voters, whichever is more, residing within the existing community facilities district, or if 50 percent or more of the registered voters or six registered voters, whichever is more, residing within the territory proposed for annexation or proposed to be annexed in the future, or if the owners of one-half or more of the area of land in the territory included in the existing district, or if the owners of one-half or more of the area of land in the territory proposed to be annexed or proposed to be annexed in the future, file written protests against the proposed annexation of territory to the existing community facilities district or the proposed addition of territory to the existing community facilities district in the future, and protests are not withdrawn so as to reduce the protests to less than a majority, no further proceedings shall be undertaken for a period of one year from the date of decision of the legislative body on the issues discussed at the hearing.

SEC. 18. Section 53339.7 of the Government Code is amended to read:

53339.7. (a) The hearing may be continued from time to time, but shall be completed within 30 days. At the conclusion of the hearing, the legislative body may abandon the proceedings, may, after passing upon all protests, submit the question of levying a special tax within the area proposed to be annexed to the existing community facilities district to the qualified electors of the area proposed to be annexed as specified in Article 2 (commencing with Section 53318), or may provide for the annexation of territory proposed for annexation in the future upon the unanimous approval of the owner or owners of each parcel or parcels at the time that the parcel or parcels are annexed, without additional hearings.

(b) Notwithstanding any other provision of law, when the question of levying a special tax within the areas proposed to be annexed into an existing community facilities district appears on the same ballot as the question of annexation of the same territory to a school district the effectiveness of each ballot measure may be made contingent on the passage of the other ballot measure.

SEC. 19. Section 53339.8 of the Government Code is amended to read:

53339.8. (a) After the canvass of returns of any election conducted in accordance with Section 53339.7, the legislative body shall determine that the area proposed to be annexed is added to and part of the existing community facilities district with full legal effect, and the legislative body may levy any special tax within the annexed territory, as specified in the resolution of intention to annex adopted pursuant to Section 53339.2, if two-thirds of the votes cast on the proposition are in favor of levying the special tax.

(b) Upon a determination by the legislative body that the area proposed to be annexed is added to the existing community facilities

district, the clerk of the legislative body shall record notice of the annexation pursuant to Section 3117.5 of the Streets and Highways Code.

SEC. 20. Section 53340 of the Government Code is amended to read:

53340. After a community facilities district has been created and authorized to levy specified special taxes pursuant to Article 2 (commencing with Section 53318), Article 3 (commencing with Section 53330), or Article 3.5 (commencing with Section 53339), the legislative body may, by ordinance, levy the special taxes at the rate and apportion them in the manner specified in the resolution adopted pursuant to Article 2 (commencing with Section 53318), Article 3 (commencing with Section 53330), or Article 3.5 (commencing with Section 53339). The legislative body may provide, by resolution, for the levy of the special tax in the current tax year or future tax years at the same rate or at a lower rate than the rate provided by ordinance, if the resolution is adopted and a certified list of all parcels subject to the special tax levy including the amount of the tax to be levied on each parcel for the applicable tax year, is filed by the clerk or other official designated by the legislative body with the county auditor on or before the 10th day of August of that tax year. The clerk or other official designated by the legislative body may file the certified list after the 10th of August but not later than the 21st of August if the clerk or other official obtains prior written consent of the county auditor. Properties or entities of the state, federal, or other local governments shall, except as otherwise provided in Section 53317.3, be exempt from the special tax. No other properties or entities are exempt from the special tax unless the properties or entities are expressly exempted in the resolution of formation to establish a district adopted pursuant to Section 53325.1 or in a resolution of consideration to levy a new special tax or special taxes or to alter the rate or method of apportionment of an existing special tax as provided in Section 53334. The proceeds of any special tax may only be used to pay, in whole or part, the cost of providing public facilities, services, and incidental expenses pursuant to this chapter. The special tax shall be collected in the same manner as ordinary ad valorem property taxes are collected and shall be subject to the same penalties and the same procedure, sale, and lien priority in case of delinquency as is provided for ad valorem taxes, unless another procedure has been authorized in the resolution of formation establishing the district and adopted by the legislative body. The tax collector may collect the special tax at intervals as specified in the resolution of formation, including intervals different from the intervals at which the ordinary ad valorem property taxes are collected. The tax collector may deduct the reasonable administrative costs incurred in collecting the special tax.

All special taxes levied by a community facilities district shall be secured by the lien imposed pursuant to Section 3115.5 of the Streets and Highways Code. This lien shall be a continuing lien and shall

secure each levy of special taxes. The lien of the special tax shall continue in force and effect until the special tax obligation is prepaid, permanently satisfied, and canceled in accordance with Section 53344 or until the special tax ceases to be levied by the legislative body in the manner provided in Section 53330.5. If any portion of a parcel is encumbered by a lien pursuant to this chapter, the entirety of the parcel shall be encumbered by that lien.

SEC. 21. Section 53341.5 of the Government Code is amended to read:

53341.5. (a) If a lot, parcel, or unit of a subdivision is subject to a special tax levied pursuant to this chapter for which a public report is not required pursuant to Article 2 (commencing with Section 11010) of Chapter 1 of Part 2 of Division 4 of the Business and Professions Code, the subdivider, his or her agent, or representative, shall not sell, or lease for a term exceeding five years, the lot, parcel, or unit, or cause it to be sold or leased for a term exceeding five years, until the prospective purchaser or lessee of the lot, parcel, or unit has been furnished with and has signed a written notice as provided in this section. The notice shall contain the heading "NOTICE OF SPECIAL TAX" in type no smaller than 8-point type, and shall state the following in clear and simple language:

(1) That the property being purchased is or will be subject to a special tax which is in addition to the property tax and any other applicable local tax or assessment.

(2) The maximum annual amount of the special tax, and the number of years for which it will be levied.

(3) The types of facilities or services to be paid for with the proceeds of the special tax.

(b) "Subdivision," as used in subdivision (a), means improved or unimproved land that is divided or proposed to be divided for the purpose of sale, lease, or financing, whether immediate or future, into two or more lots, parcels, or units and includes a condominium project, as defined by Section 1350, a community apartment project, a stock cooperative, and a limited-equity housing cooperative, as defined in Sections 11004, 11003.2, and 11003.4, respectively, of the Business and Professions Code.

(c) If any disclosure required to be made by this section is delivered after the execution of an agreement to purchase, the buyer shall have three days after delivery in person or five days after delivery by deposit in the mail, to terminate his or her agreement by delivery of written notice of that termination to the owner, subdivider, or agent. Any disclosure delivered after the execution of an agreement to purchase shall contain a statement describing the buyer's right, method and time to rescind as prescribed by this subdivision.

(d) The failure to furnish the notice to the buyer or lessee, and failure of the buyer or lessee to sign the notice of a special tax, shall not invalidate any grant, conveyance, lease, or encumbrance.

(e) Any person or entity who willfully violates the provisions of

this section shall be liable to the purchaser of a lot or unit which is subject to the provisions of this section, for actual damages, and in addition thereto, shall be guilty of a public offense punishable by a fine in an amount not to exceed five hundred dollars ($500). In an action to enforce such liability or fine, the prevailing party shall be awarded reasonable attorney's fees.

SEC. 22. Section 53345 of the Government Code is amended to read:

53345. Whenever the legislative body deems it necessary for the community facilities district to incur a bonded indebtedness, it shall, by resolution, set forth all of the following:

(a) A declaration of the necessity for the indebtedness.

(b) The purpose for which the proposed debt is to be incurred.

(c) The amount of the proposed debt. The legislative body may provide for a reduction in the amount of proposed debt in compliance with the provisions of Section 53313.9.

(d) The time and place for a hearing by the legislative body on the proposed debt issue.

SEC. 23. Section 53345.3 of the Government Code is amended to read:

53345.3. The amount of the proposed bonded indebtedness may include all costs and estimated costs incidental to, or connected with, the accomplishment of the purpose for which the proposed debt is to be incurred, including, but not limited to, the estimated costs of construction or acquisition of buildings, or both; acquisition of land, rights-of-way, water, sewer, or other capacity or connection fees; lease payments for school facilities, satisfaction of contractual obligations relating to expenses or the advancement of funds for expenses existing at the time the bonds are issued pursuant to this chapter; architectural, engineering, inspection, legal, fiscal, and financial consultant fees; bond and other reserve funds; discount fees; interest on any bonds of the district estimated to be due and payable within two years of issuance of the bonds; election costs; and all costs of issuance of the bonds, including, but not limited to, fees for bond counsel, costs of obtaining credit ratings, bond insurance premiums, fees for letters of credit, and other credit enhancement costs, and printing costs.

SEC. 24. Section 53350 of the Government Code is amended to read:

53350. For purposes of financing of, or contributing to the financing of, specified public facilities, the legislative body may by resolution designate a portion or portions of the district as one or more improvement areas. An area shall be known as "Improvement Area No. _____" of "Community Facilities District _____." After the designation of an improvement area, all proceedings for purposes of a bond election and for the purpose of levying special taxes for payment of the bonds, or for any other change pursuant to Article 3 (commencing with Section 53330), shall apply only to the improvement area for those specified facilities.

SEC. 25. Section 53353.5 of the Government Code is amended to read:

53353.5. (a) Propositions relating to the levy of a special tax, the incurring of bonded indebtedness, or to establish or change an appropriations limit, or any combination thereof, under this chapter, may be combined into one ballot proposition as determined by the legislative body. The qualified electors for all of these purposes shall be determined and the election shall be conducted in the same manner as for a special tax election pursuant to Section 53326.

(b) The amendments of this section enacted by the Statutes of 1984 and 1991 do not constitute a change in, but are declaratory of and a clarification of, the existing law.

SEC. 26. Section 53356 of the Government Code is amended to read:

53356. If more than two-thirds of the votes cast at the election are in favor of incurring the indebtedness, the legislative body may, by resolution, at the time or times it deems proper, provide for the following:

(a) The form of the bonds.

(b) The execution of the bonds.

(c) The issuance of any part of the bonds.

(d) The appointment of one or more banks or trust companies within or without the state having the necessary trust powers as trustee, fiscal agent, paying agent, or bond registrar.

(e) The execution of a trust agreement or indenture securing the bonds.

(f) The pledge or assignment of any revenues of the community facilities district to the repayment of the bonds.

(g) The investment of any bond proceeds and other revenues, including special tax revenues, by the trustee or fiscal agent in any securities or obligations described in the resolution, indenture, trust agreement, or other instrument providing for the issuance of the bonds. The resolution may provide for payment to the United States from any available revenues of a community facilities district of any excess investment earnings required to be rebated by federal law.

(h) The date or dates to be borne by the bonds and the time or times of maturity of the bonds and the place or places and time or times that the bonds shall be payable.

(i) The interest, fixed or variable, to be borne by the bonds.

(j) The denominations, form, and registration privileges of the bonds.

(k) Any other terms and conditions determined to be necessary by the legislative body.

SEC. 26.5. Section 53356 of the Government Code is amended to read:

53356. If the indebtedness is approved by the voters as required under Section 53355, the legislative body may, by resolution, at the time or times it deems proper, provide for the following:

(a) The form of the bonds.

(b) The execution of the bonds.

(c) The issuance of any part of the bonds.

(d) The appointment of one or more banks or trust companies within or outside of the state having the necessary trust powers as trustee, fiscal agent, paying agent, or bond registrar.

(e) The execution of a trust agreement or indenture securing the bonds.

(f) The pledge or assignment of any revenues of the community facilities district to the repayment of the bonds.

(g) The investment of any bond proceeds and other revenues, including special tax revenues, by the trustee or fiscal agent in any securities or obligations described in the resolution, indenture, trust agreement, or other instrument providing for the issuance of the bonds. The resolution may provide for payment to the United States from any available revenues of a community facilities district of any excess investment earnings required to be rebated by federal law.

(h) The date or dates to be borne by the bonds, the time or times of maturity of the bonds, and the place or places and time or times that the bonds shall be payable.

(i) The interest, fixed or variable, to be borne by the bonds.

(j) The denominations, form, and registration privileges of the bonds.

(k) Any other terms and conditions determined by the legislative body to be necessary.

SEC. 27. Section 53356.05 is added to the Government Code, to read:

53356.05. The bond indenture or other bond documents may provide that the legislative body agrees to notify one or more parties, including the underwriter or other first purchaser of the bonds, an appropriate national repository for bond information approved by the Securities and Exchange Commission, or the California Debt Advisory Commission, in the event that specified events occur which may affect the market value of outstanding bonds. These events may include, but are not limited to, the following, for example:

(a) Withdrawal of funds from any reserve fund for the bonds, such that the balance in the fund falls below a specified percentage of the amount required by bond documents.

(b) Draw upon a letter of credit or other credit enhancement for the bonds.

(c) Filing for bankruptcy by a developer or other owner of more than a specified percentage of the area or property value within the district.

(d) Unforeseen discovery of toxic materials or rare and endangered plant or animal species within areas of the district proposed for development.

SEC. 28. Section 53356.1 of the Government Code is amended to read:

53356.1. (a) As a cumulative remedy, if bonds are outstanding, the legislative body may, not later than four years after the due date

of the last installment of principal thereof, order that any delinquent special taxes levied in whole or in part for payment of the bonds, together with any penalties, interest, and costs, be collected by an action brought in the superior court to foreclose the lien of special tax.

(b) The legislative body may, by resolution, adopted prior to the issuance of bonds under this chapter covenant for the benefit of bondowners to commence and diligently pursue to completion any foreclosure action regarding delinquent installments of any amount levied as a special tax for the payment of interest or principal of any bonds that are issued, or may employ a trustee to do so on behalf of the bondholders. The resolution may specify a deadline for commencement of the foreclosure action and any other terms and conditions the legislative body determines reasonable regarding the foreclosure action.

(c) Except as provided in Section 53356.6, all special taxes, interest, penalties, costs, fees, and other charges that are delinquent at the time of the ordering of a foreclosure action shall be collected in the action. In the event that a lot or parcel of property has not been sold pursuant to judgment in the foreclosure action at the time that subsequent special taxes become delinquent, the court may include the subsequent special taxes, interest, penalties, costs, fees, and other charges in the judgment or modified judgment.

SEC. 29. Section 53356.3 of the Government Code is amended to read:

53356.3. At any time after the tax collector has been relieved of his or her duty to collect sums under Section 53356.2 and before judgment in a foreclosure action, the local agency or trustee shall dismiss the action upon payment of all of the following:

(a) The amount of any delinquent special taxes together with any penalties, interest, and costs accrued thereon to date of complete payment hereunder.

(b) Costs of suit, including, but not limited to, litigation guarantees provided by title companies with respect to all claims of ownership or interest in the subject property.

(c) Attorneys' fees authorized by the local agency.

(d) The tax collector's costs authorized by subdivision (b) of Section 53356.2.

SEC. 30. Section 53356.4 of the Government Code is amended to read:

53356.4. The foreclosure action shall be brought in the name of the local agency or trustee on behalf of the bondholders pursuant to Section 53356.1, and may be brought within the time specified in Section 53356.1. The complaint may be brief and need only include the following allegations:

(a) That on a stated date, a certain sum of special taxes, levied against the subject property (describing it) pursuant to this chapter, became delinquent.

(b) On that date, bonds issued pursuant to this chapter, payable

in whole or in part by the subject special taxes, were outstanding.

(c) That the legislative body or trustee has ordered the foreclosure.

SEC. 31. Section 53358 of the Government Code is amended to read:

53358. When the legislative body provides for the fixing and levying of special taxes and charges for the community facilities district it shall also provide for the fixing and levying of that amount of special taxes and charges within the community facilities district which is required for the payment of the principal of and interest on any outstanding bonded debt of the community facilities district, including any necessary replenishment or expenditure of bond reserve funds or accumulation of funds for future bond payments, including any amount required by federal law to be rebated to the United States on that bonded debt. The special tax or charge shall be levied and collected by the same officers and at the same time and in the same manner that all other special taxes and charges are levied and collected for the community facilities district or in any other manner specified by the legislative body. The special taxes and charges shall not exceed the authority granted by Article 2 (commencing with Section 53318) and Article 3 (commencing with Section 53330). All of the collections for payment of principal and interest on bonds shall be paid into the community facilities district bond fund and reserve or other fund for the particular community facilities district and shall be used solely for the payment of the principal of and interest on the outstanding bonds of the community facilities district.

SEC. 32. Section 53361.4 of the Government Code is amended to read:

53361.4. Whenever the legislative body declares by resolution that it deems it desirable that any bonds issued or to be issued by the community facilities district or an improvement area within the district should be certified by the Treasurer as provided in this section, or if the community facilities district was established by the legislative body of a special district that is required to seek certification of its bonds by the Treasurer pursuant to the District Securities Investigation Law or other provisions of law and the bonds issued or to be issued by the community facilities district are "bonds" as defined in Section 58751, the legislative body shall file a certified copy of the resolution with the Treasurer and the bonds described in the resolution shall then be subject to investigation and certification by the Treasurer. If, in the opinion of the Treasurer, the bonds are adequately secured and the revenues and other funds applicable to the payment of the bonds are, or upon the acquisition, construction, or improvement of the enterprise for which the bonds were or are to be issued, will be sufficient to pay the principal of and interest on the bonds, the Treasurer shall certify that the bonds are legal investments for all trust funds, for the funds of all insurance companies, the state school funds, and any funds, other than funds

of savings banks, which may be invested in bonds of cities, counties, cities and counties, school districts, or municipalities in the state.

SEC. 33. Section 53365 of the Government Code is repealed.

SEC. 33.5. Section 53365 is added to the Government Code, to read:

53365. Notice designating the bonds called for redemption shall be mailed to the underwriter or other first purchaser and to the registered owners of the bonds to be called by first-class mail. The notice shall be mailed not less than 30 nor more than 90 days prior to the date fixed for redemption.

SEC. 34. Section 53381 of the Government Code is amended to read:

53381. A district may expand the capacity of existing public capital facilities, replace existing public capital facilities with alternative technologies that perform similar functions, reroute or relocate public capital facilities, or construct new public capital facilities which comprise a component of a program to rehabilitate the public works of the district or to rehabilitate any related system of public works within the district or contribute to the cost of any project authorized by this section.

SEC. 35. Section 5471 of the Health and Safety Code is amended to read:

5471. In addition to the powers granted in the principal act, any entity shall have power, by an ordinance approved by a two-thirds vote of the members of the legislative body thereof, to prescribe, revise and collect, fees, tolls, rates, rentals, or other charges, including water, sewer standby or immediate availability charges, for services and facilities furnished by it, either within or without its territorial limits, in connection with its water, sanitation, storm drainage, or sewerage system. However, the entity may provide that the charge for the service shall be collected with the rates, tolls, and charges for any other utility, and that any or all of these charges may be billed upon the same bill. Where the charge is to be collected with the charges for any other utility service furnished by a department or agency of the entity and over which its legislative body does not exercise control, the consent of the department or agency shall be obtained prior to collecting water, sanitation, storm drainage, or sewerage charges with the charges for any other utility. Revenues derived under the provisions in this section, shall be used only for the acquisition, construction, reconstruction, maintenance, and operation of water systems and sanitation, storm drainage, or sewerage facilities, to repay principal and interest on bonds issued for the construction or reconstruction of these water systems and sanitary, storm drainage, or sewerage facilities and to repay federal or state loans or advances made to the entity for the construction or reconstruction of water systems and sanitary, storm drainage, or sewerage facilities. However, the revenue shall not be used for the acquisition or construction of new local street sewers or laterals as distinguished from main trunk, interceptor and outfall sewers.

SEC. 35.1. Section 5471 of the Health and Safety Code is amended to read:

5471. (a) Subject to Section 66013 of the Government Code, and in addition to the powers granted in the principal act, any entity shall have power, by an ordinance approved by a two-thirds vote of the members of the legislative body thereof, to prescribe, revise and collect fees, tolls, rates, rentals, or other charges, including sewer capacity charges or sewer standby or immediate availability charges, for services and facilities furnished by it, either within or without its territorial limits, in connection with its sanitation, storm drainage, or sewerage system. However, the entity may provide that the charge for the service shall be collected with the rates, tolls, and charges for any other utility, and that any or all of these charges may be billed upon the same bill. Where the charge is to be collected with the charges for any other utility service furnished by a department or agency of the entity and over which its legislative body does not exercise control, the consent of the department or agency shall be obtained prior to collecting sanitation, storm drainage, or sewerage charges with the charges for any other utility. Revenues derived under the provisions in this section shall be used only for the acquisition, construction, reconstruction, maintenance, and operation of sanitation, storm drainage, or sewerage facilities, to repay principal and interest on bonds issued for the construction or reconstruction of these sanitary, storm drainage, or sewerage facilities and to repay federal or state loans or advances made to the entity for the construction or reconstruction of sanitary, storm drainage, or sewerage facilities. However, the revenue shall not be used for the acquisition or construction of new local street sewers or laterals as distinguished from main trunk, interceptor and outfall sewers.

(b) Any local agency adopting both capacity fees or charges and standby fees or charges shall distinguish the benefits derived from the standby fees or charges and capacity fees or charges in the official action at which either is adopted, revised, or modified.

(c) This section shall not be construed to modify or repeal Chapter 13.7 (commencing with Section 54999) of Part 1 of Division 2 of Title 5 of the Government Code.

(d) Prior to enacting a capacity fee pursuant to this section, the legislative body shall hold a noticed hearing as provided in Section 5471.5.

SEC. 35.5. Section 3110 of the Streets and Highways Code is amended to read:

3110. (a) The proposed boundaries of the district to be specially taxed or assessed in proceedings shall be described by resolution or ordinance adopted by the legislative body prior to the hearing on the formation or extent of the district. The description of the proposed boundaries shall be by reference to a map of the district which shall indicate by a boundary line the extent of the territory included in the proposed district and the map shall govern for all details as to the

extent of the district. The map shall also contain the name of the city and a distinctive designation, in words or by number, of the district shown on the map.

(b) The map shall be legibly drawn, printed or reproduced by a process that provides a permanent record. Each sheet of paper or other material used for the map shall be 18 by 26 inches in size, shall have clearly shown therein the particular number of the sheet, the total number of sheets comprising the map, and its relation to each adjoining sheet, and shall have encompassing its border a line that leaves a blank margin one inch in width.

The map shall be labeled substantially as follows: Proposed Boundaries of (here insert name or number of district) (here insert name of city and county thereafter), State of California.

In addition, if the resolution of intention to create the district proposes that some or all tax or bond proceeds of the district would be used to pay for cleanup of any hazardous substance pursuant to subdivision (e) of Section 53313 of the Government Code, the map label shall include the following statement in large, conspicuous letters:

TAXES LEVIED BY THIS DISTRICT MAY BE USED TO PAY FOR CLEANUP OF HAZARDOUS SUBSTANCES.

If the map consists of more than one page, the same entitlement shall be on each page.

The map shall also have thereon legends reading substantially as follows:

(1) Filed in the office of the (clerk of the legislative body) this _____ day of _____ 19__.

_____

(Clerk of the legislative body)

(2) I hereby certify that the within map showing proposed boundaries of (here insert name or number of district) (here insert name of city, and, if not a county, insert name of county thereafter), State of California, was approved by the city council (or other appropriate legislative body) of the (here insert city) at a regular meeting thereof, held on the _____ day of _____, 19__, by its Resolution No. ____.

(3) Filed this _____ day of _____, 19__, at the hour of _____ o'clock __m. in Book _____ of Maps of Assessment and Community Facilities Districts at page _____, in the office of the county recorder in the County of _____, State of California.

_____

(County Recorder of County of _____)

SEC. 36. Section 3110.5 is added to the Streets and Highways Code, to read:

3110.5. In the case of annexation proceedings in connection with a community facilities district, a separate map of the area proposed to be annexed shall be prepared and adopted by the legislative body

by resolution or ordinance prior to the hearing on the proposed annexation. It shall be entitled "Annexation Map No. _____ of Community Facilities District No. _____ of _____, _____ County, California" and shall reference by title, book, page, and recording date, the original (or if it has been amended, the most recent) boundary map of the community facilities district. The provisions of this part shall apply to the annexation map in all other respects as if it were an original community facilities district boundary map. Annexation shall not be considered modification or amendment of the boundaries of the community facilities district for purposes of this part, although an annexation map may be modified or amended.

SEC. 37. Section 3113.5 is added to the Streets and Highways Code, to read:

3113.5. All modifications, amendments, and annexations may be consolidated in a single map at any time at the direction of the local legislative body. The map shall supersede all previously recorded maps and shall be processed by the county recorder as provided in Section 3113. References on the face of the map, and the cross-indexing, shall include all maps then being superseded.

SEC. 38. Section 3114.5 of the Streets and Highways Code is amended to read:

3114.5. (a) This section applies only to community facilities districts.

(b) Within 15 days after determination pursuant to Section 53328 of the Government Code that the requisite number of voters are in favor of the levy of a special tax, the clerk of the legislative body shall execute and record a notice of special tax lien in the office of the county recorder of each county in which all or any part of the community facilities district is located, and the county recorder shall accept that notice. The county recorder shall index the notice of special tax liens to the names of the property owners within the community facilities district and shown in the notice, as grantors. The notice of special tax lien shall contain the information required by Section 27288.1 of the Government Code and shall be in substantially the following form:

NOTICE OF SPECIAL TAX LIEN

Pursuant to the requirements of Section 3114.5 of the Streets and Highways Code and Section 53328.3 of the Government Code, the undersigned clerk of the legislative body of _____, State of California, hereby gives notice that a lien to secure payment of a special tax is hereby imposed by the (here insert name of legislative body) of (here insert city and name of county thereafter), State of California. The special tax secured by this lien is authorized to be levied for the purpose of: (as applicable) (1) paying principal and interest on bonds, the proceeds of which are being used to finance (briefly describe facilities financed); (2) providing (briefly

described facilities financed without bonds); (3) providing (briefly described services being financed).

If all or any portion of the proceeds of taxes or bonds of the district are authorized to be used to pay for cleanup of hazardous substances pursuant to subdivision (e) of Section 53313(e) of the Government Code, the notice shall also contain the following statement in large conspicuous type:

TAXES LEVIED BY THIS DISTRICT MAY BE USED TO PAY FOR CLEANUP OF HAZARDOUS SUBSTANCES.

The special tax is authorized to be levied within Community Facilities District No. _____ which has now been officially formed and the lien of the special tax is a continuing lien which shall secure each annual levy of the special tax and which shall continue in force and effect until the special tax obligation is prepaid, permanently satisfied, and canceled in accordance with law or until the special tax ceases to be levied and a notice of cessation of special tax is recorded in accordance with Section 53330.5 of the Government Code.

The rate, method of apportionment, and manner of collection of the authorized special tax is as follows: (here insert verbatim the description of the rate, method of apportionment, and manner of collection from the resolution of formation of the community facilities district). Conditions under which the obligation to pay the special tax may be prepaid and permanently satisfied and the lien of the special tax canceled are as follows: (here insert such conditions as are set forth in the resolution of formation or, if no provision has been made for prepayment of the special tax obligation, so state).

Notice is further given that upon the recording of this notice in the office of the county recorder, the obligation to pay the special tax levy shall become a lien upon all nonexempt real property within Community Facilities District No. _____ in accordance with Section 3115.5 of the Streets and Highways Code.

The name(s) of the owner(s) and the assessor's tax parcel number(s) of the real property included within this community facilities district and not exempt from the special tax are as follows: (insert name(s) of owner(s) and tax parcel number(s) shown on assessment roll).

Reference is made to the boundary map (or the amended boundary map) of the community facilities district recorded at Book _____ of Maps of Assessment and Community Facilities Districts at Page _____, in the office of the County Recorder for the County of _____, State of California which map is now the final boundary map of the community facilities district.

For further information concerning the current and estimated future tax liability of owners or purchasers of real property subject to this special tax lien, interested persons should contact (here provide name, address, and telephone number of the appropriate office, department, or bureau of the public entity designated pursuant to Section 53340.1 of the Government Code).

(c) The county recorder shall endorse upon the notice the time and date of filing, and shall cross index the notice by reference to the page of the book of maps of assessment and community facilities districts in which the boundary map of the district was filed.

SEC. 39. Section 3117.5 of the Streets and Highways Code is amended to read:

3117.5. (a) In the event of amendment or modification of, or annexation to, the boundaries of a community facilities district, an amendment to the Notice of Special Tax Lien shall be prepared and recorded under the procedure of Section 3114.5. In the listing of property owners, the amended notice need only list separately the names of the owners and assessor's tax parcel numbers of parcels being added to the district and the names of the owners and assessor's parcel numbers of parcels being excluded from the district. This amendment need not supersede the existing notice.

(b) If any proceedings subsequent to the approval by the voters of a special tax pursuant to the Mello-Roos Community Facilities Act of 1982, Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code, result in a change in the authorization to levy a special tax or to issue bonds, or a change in the facilities or services authorized to be financed, the clerk of the legislative body shall record an amendment to the original (or, if it has been superseded, the most recent) Notice of Special Tax Lien and any amendments thereto which shall reference the book and page and recording date of that notice and any amendments to it and shall clearly set forth the changes.

SEC. 40. Section 36501 of the Streets and Highways Code is amended to read:

36501. (a) The Legislature finds and declares that businesses located and operating within the business districts of this state's communities are economically disadvantaged, are underutilized, and are unable to attract customers due to inadequate facilities, services, and activities in the business districts.

(b) The Legislature also finds and declares that it is in the public interest to promote the economic revitalization and physical maintenance of the business districts of its cities in order to create jobs, attract new businesses, and prevent erosion of the business districts.

(c) The Legislature also finds that it is of particular local benefit to allow cities to fund property related improvements and activities through the levy of assessments upon the businesses which benefit from those improvements and activities.

(d) The Legislature also finds and declares that tourism is a large and growing contributor to California's economy, and that promotion of a city's or county's scenic, recreational, cultural, and other attractions as a tourist destination is an important public purpose.

(e) The Legislature also finds and declares that assessments levied for the purpose of providing improvements and promoting activities

which benefit individual businesses may also benefit the property within the area directly or indirectly and that those assessments are not taxes for the general benefit of a city, but are assessments for the improvements and activities which confer special benefits upon the businesses for which the improvements and activities are provided.

SEC. 41. Section 36502 of the Streets and Highways Code is amended to read:

36502. The purpose of this part is to recodify and supplant previously enacted provisions of law which authorize cities to levy assessments on businesses within a parking and business improvement area and to provide a uniform procedure to levy assessments for improvements and activities of businesses located and operating in a business district of a city. This part does not affect or limit any other provisions of law authorizing or providing for the furnishing of improvements or activities or the raising of revenue for these purposes. In addition, this part is intended to provide a method for financing public programs to attract tourist visits to areas where tourism is economically important and desired.

SEC. 42. Section 36508 of the Streets and Highways Code is amended to read:

36508. "City" means a city, county, city and county, or an agency or entity created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, the public member agencies of which include only cities, counties, or a city and county.

SEC. 43. Section 36509 of the Streets and Highways Code is amended to read:

36509. "City council" means the city council of a city or the board of supervisors of a county, or the agency, commission, or board created pursuant to a joint powers agreement and which is a city within the meaning of this part.

SEC. 44. Section 36513 of the Streets and Highways Code is amended to read:

36513. "Activities" means, but is not limited to, all of the following:

(a) Promotion of public events which benefit businesses in the area and which take place on or in public places within the area.

(b) Furnishing of music in any public place in the area.

(c) Promotion of tourism within the area.

(d) Activities which benefit businesses located and operating in the area.

SEC. 45. Section 36521.5 is added to the Streets and Highways Code, to read:

36521.5. A county may not form an area within the territorial jurisdiction of a city without the consent of the city council of that city. A city may not form an area within the unincorporated territory of a county, without the consent of the board of supervisors of that county. A city may not form an area within the territorial jurisdiction of another city without the consent of the city council of the other

city.

SEC. 46. Section 36523 of the Streets and Highways Code is amended to read:

36523. Notice of a public hearing, held under Section 36524, 36541, 36542, or 36550, shall be given by both of the following:

(a) Publishing the resolution of intention in a newspaper of general circulation in the city once, at least seven days before the public hearing.

(b) Mailing of a complete copy of the resolution of intention by first-class mail to each business owner in the area within seven days of the city council's adoption of the resolution of intention.

(c) Notwithstanding subdivision (b), in the case of an area being established primarily to promote tourism, a copy of the resolution of intention shall be mailed by first-class mail, within seven days of the city council's adoption of the resolution of intention, to the owner of each business in the area which will be subject to assessment.

SEC. 47. Section 36525 of the Streets and Highways Code is amended to read:

36525. (a) If written protests are received from the owners of businesses in the proposed area which will pay 50 percent or more of the assessments proposed to be levied and protests are not withdrawn so as to reduce the protests to less than that 50 percent, no further proceedings to create the specified parking and business improvement area or to levy the proposed assessment, as contained in the resolution of intention, shall be taken for a period of one year from the date of the finding of a majority protest by the city council.

(b) If the majority protest is only against the furnishing of a specified type or types of improvement or activity within the area, those types of improvements or activities shall be eliminated.

SEC. 48. Section 36526 of the Streets and Highways Code is amended to read:

36526. (a) At the conclusion of the public hearing to establish the area, the city council may adopt, revise, change, reduce, or modify the proposed assessment or the type or types of improvements and activities to be funded with the revenues from the assessments.

(b) At the public hearing, the city council may only make changes in, to, or from, the boundaries of the proposed parking and business improvement area that will exclude territory which will not benefit from the proposed improvements or activities. However, proposed assessments may only be revised by reducing any or all of them.

(c) The city council shall not change the boundaries of the area to include any territory that will not, in its judgment, benefit by the improvement or activity. Any addition of territory to the proposed boundaries of the area may be made only upon notice to the owners of the businesses proposed to be added to the area, as provided in Section 36523, and upon a public hearing on the addition of territory, as provided in Section 36524.

SEC. 49. Section 36527 of the Streets and Highways Code is amended to read:

36527. If the city council, following the public hearing, decides to establish the proposed parking and business improvement area, it shall adopt an ordinance to that effect. The ordinance shall contain all of the following:

(a) The number, date of adoption, and title of the resolution of intention.

(b) The time and place where the public hearing was held concerning the establishment of the area.

(c) A determination regarding any protests received at the public hearing.

(d) The description of the boundaries of the area and of each separate benefit zone established within the area.

(e) A statement that a parking and business improvement area has been established and the name of the area.

(f) A statement that the businesses in the area established by the ordinance shall be subject to any amendments to this part.

(g) The description of the method and basis of levying the assessments, with a breakdown by classification of businesses if a classification is used.

(h) A statement that the improvements and activities to be provided in the area will be funded by the levy of the assessments. The revenue from the levy of assessments within an area shall not be used to provide improvements or activities outside the area or for any purpose other than the purposes specified in the resolution of intention, as modified by the city council at the hearing concerning establishment of the area.

(i) A finding that the businesses and the property within the business and improvement area will be benefited by the improvements and activities funded by the assessments proposed to be levied. In the case of an area formed to promote tourism, only businesses that benefit from tourist visits may be assessed.

(j) The time and manner of collecting the assessments.

SEC. 50. Section 36530 of the Streets and Highways Code is amended to read:

36530. The city council shall appoint an advisory board which shall make a recommendation to the city council on the expenditure of revenues derived from the levy of assessments pursuant to this part, on the classification of businesses, as applicable, and on the method and basis of levying the assessments. The city council may designate existing advisory boards or commissions to serve as the advisory board for the area or may create a new advisory board for that purpose. The city council may limit membership of the advisory board to persons paying the assessments under this part. The city council may appoint the advisory board prior to adoption of the resolution of intention to create the area, so that the advisory board may recommend the provisions of the resolution of intention.

SEC. 51. Section 36535 of the Streets and Highways Code is amended to read:

36535. (a) The city council shall hold the public hearing at the

time and in the place specified in the resolution of intention. The public hearing shall be conducted as provided in Sections 36524 and 36525. The city council may continue the public hearing from time to time, but the public hearing shall be completed within 30 days.

(b) During the course or upon the conclusion of the public hearing, the city council may order changes in any of the matters provided in the report, including changes in the proposed assessments, the proposed improvements and activities to be funded with the revenues derived from the levy of the assessments, and the proposed boundaries of the area and any benefit zones within the area. The city council shall not change the boundaries to include any territory that will not, in its judgment, benefit by the improvement or activity.

(c) At the conclusion of the public hearing, the city council may adopt a resolution confirming the report as originally filed or as changed by it. The adoption of the resolution shall constitute the levy of an assessment for the fiscal year referred to in the report.

(d) Notwithstanding subdivision (c), if the primary purpose of the area is promotion of tourism, the city council may adopt a resolution confirming the report as submitted by the advisory board, or may adopt a resolution continuing the program and assessments as levied in the then current year without change, and that resolution shall constitute the levy of an assessment for the fiscal year referred to in the report. As an alternative, the city council may modify the report and adopt a resolution confirming the report as modified, but in that case the city council may adopt the resolution only after providing notice of the proposed changes as specified in Section 36523 and only after conducting a public hearing on the resolution as provided in Sections 36524 and 36525.

SEC. 52. Any proceedings to create or make changes in a community facilities district pursuant to the Mello-Roos Community Facilities Act of 1982, Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code, for which a resolution of intention has been adopted to establish the district or a resolution of consideration has been adopted to make changes in the district or an improvement area within the district prior to the effective date of this act, or for which a special tax was first levied after January 1, 1992, may be conducted in accordance with the terms of the Mello-Roos Community Facilities Act of 1982 in effect at the time the proceedings were initiated, or those proceedings may be conducted in accordance with the Mello-Roos Community Facilities Act of 1982 as affected by this act, as nearly as practicable, as determined by the legislative body and with the concurrence of the official conducting the election, as if this act had been in effect when the proceedings were commenced.

SEC. 53. The amendment made to subdivision (f) of Section 53313.5 of the Government Code by this act does not constitute a change in, but is declarative of, existing law.

SEC. 54. The amendment made to subdivision (a) of Section

53316.2 of the Government Code by this act shall not apply to any community facilities district for which a resolution of formation, a resolution of intention, or a resolution of consideration to make changes in the district has been adopted prior to the effective date of this act.

SEC. 55. Section 2.7 of this bill incorporates amendments to Section 53313.5 of the Government Code proposed by both this bill and SB 410. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 53313.5 of the Government Code, and (3) this bill is enacted after SB 410, in which case Section 2.5 of this bill shall not become operative.

SEC. 56. Section 26.5 of this bill incorporates amendments to Section 53356 of the Government Code proposed by both this bill and SB 485. It shall only become operative if (1) both bills are enacted and become effective on March 1, 1992, (2) each bill amends Section 53356 of the Government Code, and (3) this bill is enacted after SB 485, in which case Section 26 of this bill shall not become operative.

SEC. 57. Section 35.1 of this bill incorporates amendments to Section 5471 of the Health and Safety Code proposed by both this bill and AB 1875. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 5471 of the Health and Safety Code, and (3) this bill is enacted after AB 1875, in which case Section 35 of this bill shall not become operative.

SEC. 58. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1111

An act to amend Sections 11321.2, 11322, 11324.2, 11327.8, and 11328 of, to add Sections 11324.5 and 11324.7 to, and to add Article 9 (commencing with Section 11520) to Chapter 2 of Part 3 of Division 9 of, the Welfare and Institutions Code, relating to public assistance.

[Approved by Governor October 14, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 11321.2 of the Welfare and Institutions Code is amended to read:

11321.2. (a) No plan, or revision of a plan, may be implemented unless approved by the department. In determining whether a plan should be approved, the department shall consider the projected long-range cost-effectiveness of the plan, in addition to the appropriateness of the services proposed to be delivered under the plan, given the local labor market, maximum utilization of existing and generic services, and administrative ease.

(b) (1) Except as provided in paragraph (2), every plan approved by the department shall provide an adequate range of services as described in Sections 11322.6 to 11323.2, inclusive. With respect to large counties, as defined by the department for cost control purposes, "an adequate range of services" means that the counties shall provide all of the services outlined in those sections.

(2) Counties that do not provide for grant diversion as specified in subdivisions (f) and (g) of Section 11322.8 shall be deemed to have an adequate range of services.

(c) If a joint plan submitted by two or more counties serves a participant caseload equal to or greater than a large county, the plan shall meet the requirements of subdivision (b) for large counties, except for services shown to be unnecessary by the counties. No plan shall require job search and work experience of participants to the exclusion of a range of services, both existing and proposed, to be offered participants, in accordance with this section.

SEC. 2. Section 11322 of the Welfare and Institutions Code is amended to read:

11322. (a) The county welfare department shall submit to the department a program budget proposal in conjunction with the administrative cost control plan for Aid to Families with Dependent Children, Medi-Cal, and Food Stamp programs. The budget proposal shall specify the costs associated with providing the range of services included in the county plan in the most cost-effective manner.

(b) Prior to final approval of the county's budget proposal, the department shall notify each county of the amount of its allocation of funds to carry out the plan and the assumptions used to develop that allocation. If the allocation is less than the amount of funds that the county proposed in the program budget, the department shall notify the county that the proposed program budget exceeds the funds available. The department shall specify how the costs proposed by the county exceed the costs used to develop the county's allocation. The county may provide any additional documentation to justify the higher funding level. If, after reviewing the additional information, the department finds that the proposed program costs are not reasonable or cost-effective, the county shall submit the necessary revisions to its program budget to keep program expenditures within the amount of its allocation.

(c) The state share of the nonfederal costs of the Greater Avenues of Independence program shall be 70 percent of the actual nonfederal expenditures for that program or the amount appropriated by the Legislature for that purpose, whichever is less.

SEC. 3. Section 11324.2 of the Welfare and Institutions Code is amended to read:

11324.2. A preemployment preparation position utilized pursuant to this article may not be created as the result of, or may not result in, any of the following:

(a) (1) Displacement of current employees, including overtime currently worked by these employees.

(2) Displacement shall include partial displacement, including, but not limited to, a reduction in hours of nonovertime work, wages, or employment.

(b) The filling of established unfilled positions, unless the positions are unfunded in a public agency budget.

(c) The filling of positions which would otherwise be promotional opportunities for current employees.

(d) The filling of a position, prior to compliance with applicable personnel procedures or provisions of collective bargaining agreements.

(e) The filling of a position created by termination, layoff, or reduction in workforce.

(f) The filling of a work assignment customarily performed by a worker in a job classification within a recognized collective bargaining unit in that specific worksite, or the filling of a work assignment in any bargaining unit in which funded positions are vacant or in which regular employees are on layoffs.

(g) A strike, lockout, or other bona fide labor dispute, or violation of any existing collective bargaining agreement between employees and employers.

SEC. 4. Section 11324.5 is added to the Welfare and Institutions Code, to read:

11324.5. The county shall ensure that the labor union is notified of the use of participants assigned to preemployment preparation, short-term work experience, on-the-job training, or any activity funded by grant diversion, in any location or work activity controlled by an employer and covered by a collective bargaining agreement between the employer and a union. For nonunionized employees, procedures shall provide for notification to employees of the use of GAIN participants and the availability of the grievance process. Display of a poster shall satisfy this requirement.

SEC. 5. Section 11324.7 is added to the Welfare and Institutions Code, to read:

11324.7. (a) The department shall provide a grievance process for regular employees and their representatives who wish to file a complaint that an assignment to preemployment preparation, short-term work experience, on-the-job training, or any activity funded by grant diversion violates any of the displacement provisions contained in Section 11324.2 respecting any employment or training position created pursuant to this article.

(b) (1) The grievance process established pursuant to subdivision (a) shall consist of an informal procedure followed by a

hearing if the informal procedure fails to resolve the complaint to the satisfaction of the complainant.

(2) The grievance process shall be conducted in accordance with rules and notification requirements adopted and promulgated in federal law that also provides for an appeal process to the United States Department of Labor.

(3) The department shall issue instructions and requirements for the grievance process.

(c) The department shall administer the employee grievance process either directly or through the county welfare departments, or may enter into agreements with another state agency to administer all or any part of the grievance process.

SEC. 6. Section 11327.8 of the Welfare and Institutions Code is amended to read:

11327.8. (a) Except as specified in this section, whenever a participant believes that any program requirement or assignment in this program is in violation of his or her contract or is inconsistent with this article, the participant may invoke the formal grievance procedure, which shall be conducted in accordance with Section 5302 of the Unemployment Insurance Code, request a fair hearing pursuant to Chapter 7 (commencing with Section 10950) of Part 2, or utilize a formal grievance procedure to be established by the county board of supervisors, and to be specified in each county plan.

(b) If the participant is not satisfied with the outcome of the grievance procedure, he or she may appeal the decision in accordance with the procedures set forth in Chapter 7 (commencing with Section 10950) of Part 2. Participants shall be subject to sanctions pending the outcome of the formal grievance procedure or any subsequent appeal, only if they fail to participate during the period the grievance procedure is being processed. However, a participant shall not utilize the grievance procedure to appeal the results of an assessment made pursuant to Section 11325.4 or 11326.4.

(c) If a participant is not satisfied with the decision of a hearing conducted pursuant to Section 10950 concerning on-the-job working conditions, workers' compensation coverage, or wage rates used to calculate preemployment preparation hours of participation, the participant may file a further appeal with the United States Department of Labor, as provided by federal law.

(d) Notwithstanding subdivisions (b) and (c), the department shall require the use of any existing grievance procedure that is part of a collective bargaining agreement between the employer and the labor union representing the regular employee, in lieu of the process established by this section.

(e) Remedies for complaining regular employees in the process established by this section shall include, where appropriate, reinstatement, back pay, and back benefits.

SEC. 7. Article 9 (commencing with Section 11520) is added to Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Article 9. GAIN Pilot Program

11520. Notwithstanding any other provision of law, the department shall establish a three-year pilot program in Napa, San Diego, Santa Clara, and Stanislaus Counties which would permit each county to waive or modify state requirements as specified in Section 11521 and design its own GAIN program, within federal requirements.

11521. (a) Upon request by a pilot county, the department shall waive the requirements contained in subdivisions (b) and (c) of Section 11321.4, Section 11322.4, subdivision (a) of Section 11323, paragraphs (2), (3), and (4) of subdivision (c) of Section 11325.2, subdivision (a) of Section 11325.4, or Section 11326, or all of these.

(b) A participating county may modify its GAIN plan as follows:

(1) For all registrants, except those registrants deferred from participation pursuant to subdivisions (a) to (n), inclusive, of Section 11325, teen parent registrants participating pursuant to Article 3.3 (commencing with Section 11330), and participants in a self-initiated program under subparagraph (A) of paragraph (5) of subdivision (c) of Section 11325.2, the county shall conduct an initial assessment prior to program participation. The assessment shall be based upon the individual's educational, child care, and other supportive services needs; the individual's proficiencies, skill deficiencies, and prior work experience; and other factors the county determines are relevant in developing the employability plan.

(2) On the basis of the assessment, the county shall develop an employability plan in consultation with the participant.

(A) The employability plan shall contain all of the following:

(i) An employment goal for the participant.

(ii) A description of the services to be provided, including child care and other supportive services.

(iii) A description of the activities to be undertaken by the participant in order to achieve the employment goal.

(iv) A description of any other needs of the family that might be met, such as participation by a child in drug education or in life skills planning sessions.

(v) If necessary, provision for either remedial education, instruction in order to obtain a general educational development certificate, instruction in English as a second language, pursuant to paragraph (6) of subdivision (c) of Section 11325.2, or any other concurrent or sequential activities pursuant to subdivision (n) of Section 11325.

(B) The employability plan shall take into account all of the following:

(i) Available program resources.

(ii) The participant's supportive services needs.

(iii) The participant's skill level and aptitudes.

(iv) Local employment opportunities.

(v) The preference of the participant, to the maximum extent

possible.

(3) The employability plan may be amended upon agreement between the participant subject to subdivision (a) of Section 11325.4 and the county, or modified pursuant to a reassessment made under the conditions described in paragraph (7) of subdivision (c) of Section 11325.2 as necessary.

(4) A participant who remains unemployed at the end of the 90-day job search period specified in subdivision (a) of Section 11325.8 may be reassessed, rather than evaluated and reassigned to an advanced long-term preemployment preparation assignment pursuant to that subdivision.

(5) A participant who does not meet the established criteria for successful completion of the training or education services to which he or she is assigned, as specified in subdivision (b) of Section 11325.8, may be given the opportunity to demonstrate that he or she has good cause for failing to meet that criteria, before being reassigned to a basic long-term preemployment preparation assignment pursuant to that subdivision.

(6) To the extent modifications made pursuant to this subdivision conflict with other provisions of state law relating to the county GAIN plan, those provisions shall be construed as waived.

(7) Counties shall prepare the necessary waiver requests and submit them together with the GAIN county plan amendment needed to implement the pilot project.

(c) Waivers granted pursuant to this article shall not operate to reduce any of the rights or benefits of GAIN registrants or participants under Article 3.2 (commencing with Section 11320).

11522. The department shall approve the pilot county plans and process waivers in sufficient time to enable pilot counties to fully implement the projects by July 1, 1992.

11523. (a) (1) Each pilot county shall conduct an evaluation of the effectiveness of the pilot program based on measurable objectives, and report to the Legislature annually beginning July 1, 1993.

(2) The evaluation shall include, but not be limited to, the following measurable objectives:

(A) Client satisfaction as measured by a presurvey and postsurvey instrument.

(B) Increases in program completion rates, measured as a proportion of the GAIN participant total.

(C) Increases in employment rates, measured as a proportion of the GAIN participant total.

(D) Decreases in conciliation rates, measured as a proportion of the GAIN participant total.

(E) No increase in the per person average cost of services after adjustment for inflation.

(3) Program outcomes shall be compared to the county performance during the year prior to pilot implementation, as reported to the department on mandated statistical reporting forms.

(4) Cost outcomes shall be compared to the county GAIN costs during the year prior to pilot implementation.

(b) Counties may conduct evaluations pursuant to agreements with local colleges or universities.

SEC. 8. The Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution due to the unique circumstances concerning the GAIN programs in Napa, San Diego, Santa Clara, and Stanislaus Counties.

CHAPTER 1112

An act to add Section 1521.5 to the Health and Safety Code, and to add Section 16507.7 to the Welfare and Institutions Code, relating to children.

[Approved by Governor October 14, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 1521.5 is added to the Health and Safety Code, to read:

1521.5. (a) The county welfare director shall, prior to the placement of a child in a licensed foster family home, ensure that the county licensing staff or placement agency conducts one or more home interviews with the prospective foster parents sufficient to collect information which may be used by the county welfare department or the placement agency to evaluate the ability, readiness, and willingness of the prospective foster parent to meet the varying needs of a child. In counties in which the county does not have a contract with the state to license foster family homes, the home interview shall be conducted by the placement agency.

(b) All home interviews required by this section shall be conducted on an in person basis.

(c) If the home interview is conducted by the licensing agency, it shall be a part of the licensing record, and shall be shared with the county welfare director or the placement agency pursuant to subdivision (e) of Section 1798.24 of the Civil Code.

(d) No license shall be issued unless a home interview has been conducted as required by this section.

SEC. 2. Section 16507.7 is added to the Welfare and Institutions Code, to read:

16507.7. Each agency or entity, except for a community college, which offers a parenting course as part of a family maintenance or family reunification effort for a parent or parents of a child who has been adjudicated or is in the process of being adjudicated a dependent child of the court under Section 300, or whose family is

participating in a voluntary family maintenance program, shall meet all of the requirements specified in this section. Effective July 1, 1992, organizations which receive state funding for the purpose of providing parenting courses shall meet those requirements as a condition of receiving state funding. The requirements are as follows:

(a) Each parenting course shall be no more than six months in duration, and shall meet for a specified number of hours determined by each program as sufficient for the program to meet all of the requirements listed in subdivision (b).

(b) The curriculum shall include all of the following components:

(1) Building self-esteem, including, but not limited to, parents' building a positive parental identity and building the self-esteem of their children.

(2) Handling stress and anger.

(3) The growth and development of children, including, but not limited to, safety, nutrition, and health.

(4) Developing and increasing communication skills in order that a parent may learn to listen to and speak with his or her child or children.

(5) Learning to use positive disciplinary mechanisms as alternatives to the physical punishment of a child, including, but not limited to, learning what constitutes abuse and neglect.

(6) Learning the boundaries of permissible sexual conduct by adults with regard to children.

(7) Respect for, and sensitivity to, cultural differences in child rearing practices in addressing all of the topics listed in paragraphs (1) to (6), inclusive.

(c) Each parenting course is encouraged to have a maximum parent to teacher ratio of 15 parents for each teacher.

(d) Each parenting course is encouraged to conduct an initial assessment and interview of each parent enrolled in the course.

(e) Each parenting course shall give a preliminary examination prior to the start of the parenting course and an examination at the conclusion of the parenting course to measure changes in parental attitudes.

(f) Each parenting course shall enter into a written agreement with each parent with respect to the responsibilities a parent must satisfy in order to pass the course.

(g) The staff of each parenting course shall have training in the following areas:

(1) The prevention of child abuse and neglect.

(2) Parenting techniques.

(h) Each parenting course shall provide all of the following information to the county welfare department of the county in which the course is taught, for clients referred through child welfare services programs:

(1) Level of participation by parents.

(2) Number of course hours completed.

(3) Topics covered during attendance in class by a parent and topics covered during a parent's absence from class.

(4) Assessment of a parent's gain in his or her knowledge about parenting as demonstrated by tests prior to and after the parenting course.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1113

An act to amend Section 19606.5 of, to amend and repeal Section 19641 of, and to add and repeal Section 19613.6 of, the Business and Professions Code, relating to horseracing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 19606.5 of the Business and Professions Code is amended to read:

19606.5. Notwithstanding subdivision (b) of Section 19641, the state shall receive as additional license fees 50 percent of any redistributable money in a parimutuel pool arising from wagers at a satellite wagering facility in the central or southern zone, subject to payment to a claimant pursuant to Section 19598, but not successfully claimed within that period, and the funds shall be deposited in the General Fund. The remaining 50 percent of redistributable money in a parimutuel pool arising from wagers at a satellite wagering facility shall be paid to a welfare fund established by the horsemen's organization contracting with the association conducting the racing meeting for the benefit of horsemen, and that organization shall make an accounting to the board within one calendar year of the receipt of the payment.

SEC. 1.5. Section 19613.6 is added to the Business and Professions Code, to read:

19613.6. (a) Notwithstanding any other provision of this chapter,

the organization referred to in subdivision (a) of Section 19613.2 that represents thoroughbred horsemen may elect to contribute the purses from one race conducted annually by each licensed thoroughbred racing association or fair to a welfare fund. The contribution shall be used for the benefit of horsemen, and the organization shall make an accounting to the board within one calendar year of the receipt of the contribution. The designation of a specific race from which the horsemen elect to contribute the purses is subject to the mutual agreement of the horsemen's organization and the racing association or fair which conducts the race.

(b) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1993, deletes or extends that date.

SEC. 2. Section 19641 of the Business and Professions Code, as amended by Section 2 of Chapter 1283 of the Statutes of 1990, is amended to read:

19641. (a) Except as provided in subdivision (b), 126 days after the close of any horseracing meeting, an amount equal to 90 percent of any redistributable money in a parimutuel pool subject to payment to a claimant pursuant to Section 19598, but not successfully claimed within that period, shall be paid to the board.

The money received by the board under this subdivision resulting from thoroughbred, harness, or quarter horse meetings, but excluding the meetings of the California Exposition and State Fair or of a county, district agricultural association, or citrus fruit fair, shall be used by the board to support research on matters pertaining to horseracing and racetrack security, but this money is subject to annual budgetary review by the Legislature. All of the redistributable money received by the board from other meetings shall be paid immediately into the State Treasury to the credit of the General Fund.

(b) One hundred twenty-six days after the close of any horseracing meeting, one-half of the redistributable money resulting from the thoroughbred, harness, or quarter horse meetings, but excluding the meetings of the California Exposition and State Fair or county, district agricultural association, or citrus fruit fair meetings, shall be distributed to a welfare fund established by the horsemen's organization contracting with the association with respect to the conduct of racing meetings for the benefit of horsemen, and that organization shall make an accounting to the board within one calendar year of the receipt of the payment.

(c) Except as provided in subdivision (a) or (b), 140 days after the close of any horseracing meeting, any remaining redistributable money in a parimutuel pool subject to payment to a claimant pursuant to Section 19598, but not successfully claimed within that period, shall be distributed one-half to the board, for the purposes specified in subdivision (a), and one-half to the welfare fund established by the horsemen's organization described in subdivision

(b).

SEC. 3. Section 19641 of the Business and Professions Code, as amended by Section 3 of Chapter 1283 of the Statutes of 1990, is repealed.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to be applicable during the 1991 racing season, it is necessary that this act to take effect immediately.

CHAPTER 1114

An act to amend Sections 4980.44 and 4980.47 of the Business and Professions Code, relating to marriage, family, and child counselors, and making an appropriation therefor.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 4980.44 of the Business and Professions Code is amended to read:

4980.44. (a) An unlicensed marriage, family, and child counselor intern employed under this chapter shall:

(1) Have earned at least a master's degree as specified in Section 4980.40.

(2) Be registered with the board prior to the intern performing any duties, except as otherwise provided in subdivision (e) of Section 4980.43.

(3) File for renewal of registration annually for a maximum of five years after initial registration with the board.

(4) Inform each client or patient prior to performing any professional services that he or she is unlicensed and under the supervision of a licensed marriage, family, and child counselor, licensed clinical social worker, licensed psychologist, licensed physician certified in psychiatry by the American Board of Psychiatry and Neurology, or a licensed physician who has completed a residency in psychiatry and who is described in subdivision (f) of Section 4980.40, whichever is applicable. Continued employment as an unlicensed marriage, family, and child counselor intern shall cease after six years unless the requirements of subdivision (b) are met.

(b) Notwithstanding the limitations on the length of an internship registration in subdivision (a), an intern may apply for and the board shall grant extensions of the six-year period when the intern meets

the educational requirements in effect at the time of the application for an extension and there are no grounds for denial, suspension, or revocation of the registration pursuant to this chapter. An intern shall be eligible to receive a maximum of three extensions. An intern who practices pursuant to an extension shall not practice independently and shall comply with all requirements of this chapter governing experience, including supervision, even if the intern has completed the hours of experience required for licensure. Each extension shall be valid for a period of one year. Each extension shall commence on either the date on which the last intern renewal expires or the date the extension expires, whichever is applicable. An application for an extension shall be made on a form prescribed by the board and shall be accompanied by the fee prescribed in Section 4984.7 for renewal of an intern registration. An intern who is granted this extension may work in all allowable work settings.

This subdivision shall also apply to any intern whose maximum six-year registration expired on or after December 31, 1989, and who applies for an extension on or before January 1, 1993, provided the intern meets the educational requirements in effect at the time of that application for an extension and there are no grounds for denial, suspension, or revocation of the registration pursuant to this chapter. The board shall credit toward the licensure requirement those hours of experience gained between December 31, 1989, and January 1, 1993, in any allowable work setting other than private practice, provided those hours of experience meet all criteria for acceptable experience.

SEC. 2. Section 4980.47 of the Business and Professions Code is amended to read:

4980.47. (a) All trainees shall register with the board, on a form prescribed by the board, in order to be credited for hours of experience gained toward licensure. The form for trainee registration shall be submitted prior to the commencement of gaining trainee hours of experience. This section shall not affect hours of experience gained pursuant to subdivision (b) of Section 4980.42.

(b) The form for trainee registration shall contain the full name and mailing address of the applicant, the full name and address of the school where the applicant is enrolled, the date of enrollment, and the name of the degree to be granted. The fee for registration shall be twenty-five dollars ($25) and shall accompany the form.

This section applies to those persons who enroll in qualifying degree programs on or after January 1, 1990.

CHAPTER 1115

An act to amend Section 8670.3 of the Government Code, to amend Section 8750 of the Public Resources Code, and to amend Section 46016 of the Revenue and Taxation Code, relating to oil spills.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 8670.3 of the Government Code is amended to read:

8670.3. Unless the context requires otherwise, the following definitions shall govern the construction of this chapter:

(a) "Administrator" means the administrator for oil spill response appointed by the Governor pursuant to Section 8670.4.

(b) "Barges" means any vessel that carries oil in commercial quantities as cargo but is not equipped with a means of self-propulsion.

(c) "Best achievable protection" means that the highest level of protection which can be achieved through both the use of the best achievable technology and those manpower levels, training procedures, and operational methods which provide the greatest degree of protection achievable. The administrator's determination of best achievable protection shall be guided by the critical need to protect valuable coastal resources and marine waters, while also considering (1) the protection provided by the measures, (2) the technological achievability of the measures, and (3) the cost of the measures.

It is not the intent of the Legislature that the administrator use a cost-benefit or cost-effectiveness analysis or any particular method of analysis in determining which measures to require. Instead, it is the intent of the Legislature that the administrator give reasonable consideration to the protection provided by the measures, the technological achievability of the measures, and the cost of the measures when establishing the requirements to provide the best achievable protection for coastal and marine resources.

(d) "Best achievable technology" means that technology which provides the greatest degree of protection taking into consideration (1) processes which are being developed, or could feasibly be developed anywhere in the world, given overall reasonable expenditures on research and development, and (2) processes which are currently in use anywhere in the world. In determining what is best achievable technology, the administrator shall consider the effectiveness and engineering feasibility of the technology.

(e) "Local government" means any chartered or general law city, chartered or general law county, or any city and county.

(f) "Marine facility" means any facility of any kind, other than a

vessel, which is or was used for the purposes of exploring for, drilling for, producing, storing, handling, transferring, processing, refining, or transporting oil and is located in marine waters, or is located where a discharge could impact marine waters unless the facility (1) is subject to Chapter 6.67 (commencing with Section 25270) or Chapter 6.75 (commencing with Section 25299.10) of Division 20 of the Health and Safety Code or (2) is placed on a farm, nursery, logging site, small craft marina, or construction site and does not exceed 20,000 gallons in a single storage tank. For purposes of this chapter, a small craft marina is (1) a small craft storage facility delineated by a project area that was wholly or partially funded by the Harbors and Watercraft Revolving Fund, serving small craft for pleasure or commercial use or (2) any other marina with similar sized boat slips. For the purposes of this chapter, a drill ship, semisubmersible drilling platform, jack-up type drilling rig, or any other floating or temporary drilling platform is a "marine facility."

(g) "Marine terminal" means any marine facility used for transferring oil to or from tankers or barges. For the purposes of this section, a marine terminal includes all piping not integrally connected to a tank facility as defined in subdivision (k) of Section 25270.2 of the Health and Safety Code.

(h) "Marine waters" means those waters subject to tidal influence, except for waters in the Sacramento-San Joaquin Delta upstream from a line running north and south through the point where Contra Costa, Sacramento, and Solano Counties meet.

(i) "Oil" means any kind of petroleum, liquid hydrocarbons, or petroleum products or any fraction or residues therefrom, including, but not limited to, crude oil, bunker fuel, gasoline, diesel fuel, aviation fuel, oil sludge, oil refuse, oil mixed with waste, and liquid distillates from unprocessed natural gas.

(j) "Onshore facility" means any facility of any kind which is located entirely on lands not covered by marine waters.

(k) (1) "Owner" or "operator" means any of the following:

(A) In the case of a vessel, any person who owns, has an ownership interest in, operates, charters by demise, or leases, the vessel.

(B) In the case of a marine facility, any person who owns, has an ownership interest in, or operates the marine facility.

(C) Except as provided in subparagraph (D), in the case of any vessel or marine facility, title or control of which was conveyed due to bankruptcy, foreclosure, tax delinquency, abandonment, or similar means to an entity of state or local government, any person who owned, held an ownership interest in, operated, or otherwise controlled activities concerning the vessel or facility immediately beforehand.

(D) An entity of the state or local government which acquired ownership or control of a vessel or marine facility, when the entity of the state or local government has caused or contributed to a spill or discharge or oil into marine waters.

(2) "Owner" or "operator" does not include a person who,

without participating in the management of a vessel or marine facility, holds indicia of ownership primarily to protect his or her security interest in the vessel or marine facility.

(3) "Operator" does not include any person who owns the land underlying a marine facility or the facility itself if the person is not involved in the operations of the facility.

(*l*) "Person" means any individual, trust, firm, joint stock company, or corporation, including, but not limited to, a government corporation, partnership, and association. "Person" also includes any city, county, city and county, district, and the state or any department or agency thereof, and the federal government, or any department or agency thereof, to the extent permitted by law.

(m) "Pipeline" means any pipeline used at any time to transport oil.

(n) "Responsible party" or "party responsible" means any of the following:

(1) The owner or transporter of oil or a person or entity accepting responsibility for the oil.

(2) The owner, operator, or lessee of, or person who charters by demise, any vessel or marine facility, or a person or entity accepting responsibility for the vessel or marine facility.

(o) "Spill" or "discharge" means any release of at least one barrel (42 gallons) of oil into marine waters which is not authorized by any federal, state, or local government entity.

(p) "State Interagency Oil Spill Committee" means the committee established pursuant to Article 3.5 (commencing with Section 8574.1) of Chapter 7.

(q) "State oil spill contingency plan" means the state oil spill contingency plan prepared pursuant to Article 3.5 (commencing with Section 8574.1) of Chapter 7.

(r) "Tanker" means any self-propelled, waterborne vessel, constructed or adapted for the carriage of oil in bulk or in commercial quantities as cargo.

(s) "Vessel" means a tanker or barge as defined in this section.

SEC. 2. Section 8750 of the Public Resources Code is amended to read:

8750. Unless the context requires otherwise, the following definitions govern the construction of this division:

(a) "Administrator" means the administrator for oil spill response appointed by the Governor pursuant to Section 8670.4 of the Government Code.

(b) "Barges" means any vessel that carries oil in commercial quantities as cargo but is not equipped with a means of self-propulsion.

(c) "Best achievable protection" means the highest level of protection which can be achieved through both the use of the best achievable technology and those manpower levels, training procedures, and operational methods which provide the greatest degree of protection achievable. The administrator's determination

of best achievable protection shall be guided by the critical need to protect valuable coastal resources and marine waters, while also considering (1) the protection provided by the measures, (2) the technological achievability of the measures, and (3) the cost of the measures.

It is not the intent of the Legislature that the administrator use a cost-benefit or cost-effectiveness analysis or any particular method of analysis in determining which measures to require. Instead, it is the intent of the Legislature that the administrator give reasonable consideration to the protection provided by the measures, the technological achievability of the measures, and the cost of the measures when establishing the requirements to provide the best achievable protection for coastal and marine resources.

(d) "Best achievable technology" means that technology which provides the greatest degree of protection taking into consideration (1) processes which are being developed, or could feasibly be developed anywhere in the world, given overall reasonable expenditures on research and development, and (2) processes which are currently in use anywhere in the world. In determining what is best achievable technology, the administrator shall consider the effectiveness and engineering feasibility of the technology.

(e) "Commission" means the State Lands Commission.

(f) "Local government" means any chartered or general law city, chartered or general law county or any city and county.

(g) "Marine facility" means any facility of any kind, other than a vessel, which is or was used for the purposes of exploring for, drilling for, producing, storing, handling, transferring, processing, refining, or transporting oil and is located in marine waters, or is located where a discharge could impact marine waters unless the facility (1) is subject to Chapter 6.67 (commencing with Section 25270) or Chapter 6.75 (commencing with Section 25299.10) of Division 20 of the Health and Safety Code or (2) is placed on a farm, nursery, logging site, small craft harbor, or construction site and does not exceed 20,000 gallons in a single storage tank. For purposes of this division, a small craft marina is (1) a small craft storage facility delineated by a project area that was wholly or partially funded by the Harbors and Watercraft Revolving Fund, serving small craft for pleasure or commercial use or (2) any other marina with similar sized boat slips. For the purposes of this division, a drill ship, semisubmersible drilling platform, jack-up type drilling rig, or any other floating or temporary drilling platform is a "marine facility."

(h) "Marine terminal" means any marine facility used for transferring oil to or from tankers or barges. For the purposes of this section, a marine terminal includes all piping not integrally connected to a tank facility as defined in subdivision (k) of Section 25270.2 of the Health and Safety Code.

(i) "Marine waters" means those waters subject to tidal influence, except for waters in the Sacramento-San Joaquin Rivers and Delta upstream from a line running north and south through the point

where Contra Costa, Sacramento, and Solano Counties meet.

(j) "Oil" means any kind of petroleum, liquid hydrocarbons, or petroleum products or any fraction or residues therefrom, including, but not limited to, crude oil, bunker fuel, gasoline, diesel fuel, aviation fuel, oil sludge, oil refuse, oil mixed with waste, and liquid distillates from unprocessed natural gas.

(k) "Onshore facility" means any facility of any kind which is located entirely on lands not covered by marine waters.

(*l*) "Operator" when used in connection with vessels, marine terminals, pipelines, or facilities, means any person or entity which owns, has an ownership interest in, charters, leases, rents, operates, participates in the operation of or uses that vessel, terminal, pipeline, or facility. "Operator" does not include any entity which owns the land underlying the facility or the facility itself, where the entity is not involved in the operations of the facility.

(m) "Person" means an individual, trust, firm, joint stock company, or corporation, including, but not limited to, a government corporation, partnership, and association. "Person" also includes any city, county, city and county, district, and the state or any department or agency thereof, and the federal government, or any department or agency thereof, to the extent permitted by law.

(n) "Pipeline" means any pipeline used at any time to transport oil.

(o) "Responsible party" or "party responsible" means either of the following:

(1) The owner or transporter of oil or a person or entity accepting responsibility for the oil.

(2) The owner, operator, or lessee of, or person who charters by demise, any vessel or marine facility or a person or entity accepting responsibility for the vessel or marine facility.

(p) "Spill" or "discharge" means any release of at least one barrel (42 gallons) of oil not authorized by any federal, state, or local government entity.

(q) "State oil spill contingency plan" means the state oil spill contingency plan prepared pursuant to Article 3.5 (commencing with Section 8574.1) of Chapter 7 of Division 1 of Title 2 of the Government Code.

(r) "Tanker" means any self-propelled, waterborne vessel, constructed or adapted for the carriage of oil in bulk or in commercial quantities as cargo.

(s) "Vessel" means a tanker or barge as defined in this section.

SEC. 3. Section 46016 of the Revenue and Taxation Code is amended to read:

46016. "Marine facility" means any facility of any kind, other than a vessel, which is or was used for the purposes of exploring for, drilling for, producing, storing, handling, transferring, processing, refining, or transporting crude oil or petroleum products and is located in marine waters, or is located where a discharge could impact marine waters unless the facility , (1) is subject to Chapter

6.67 (commencing with Section 25270) or Chapter 6.75 (commencing with Section 25299.10) of Division 20 of the Health and Safety Code or, (2) is placed on a farm, nursery, logging site, small craft marina, or construction site and does not exceed 20,000 gallons in a single storage tank. For purposes of this part, a small craft marina is (1) a small craft storage facility delineated by a project area that was wholly or partially funded by the Harbors and Watercraft Revolving Fund, serving small craft for pleasure or commercial use or (2) any other marina with similar sized boat slips. For the purposes of this part, a drill ship, semisubmersible drilling platform, jack-up type drilling rig, or any other floating or temporary drilling platform is a "marine facility."

CHAPTER 1116

An act to amend Sections 785, 786.5, and 788.5 of, and to add Sections 789.6, and 789.7 to, the Insurance Code, relating to health insurance, and making an appropriation therefor.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 785 of the Insurance Code is amended to read:

785. (a) All insurers, brokers, agents, and others engaged in the transaction of insurance owe a prospective insured who is age 65 years or older, a duty of honesty, good faith, and fair dealing. This duty is in addition to any other duty, whether express or implied, that may exist.

(b) Conduct of an insurer, broker, or agent, or other person engaged in the transaction of insurance, during the offer and sale of a policy or certificate previous to the purchase is relevant to any action alleging a breach of the duty of good faith and fair dealing.

(c) Except where explicitly provided to the contrary, this article shall not apply to any of the following:

(1) Medicare supplement insurance as defined in subdivision (b) of Section 10192.1.

(2) Long-term care insurance as defined in Section 10231.2.

(3) Disability coverage provided through the insured's employer or former employer.

(4) Disability insurance policies or certificates principally designed to provide coverage for accidents or expenses incurred while traveling if the premium for the policy or certificate is ten dollars ($10) or less.

(5) Blanket disability insurance as defined in Section 10270.3.

(6) Credit disability insurance as defined in Section 779.2.

(7) Accidental death insurance.

(8) Until January 1, 1997, disability policies or certificates which are sold through direct response methods of delivery.

(9) Disability income insurance as defined in subdivision (i) of Section 799.01.

(d) Until December 31, 1993, Sections 786, 786.5, and 788, subdivision (c) of Section 788.5, and Sections 788.7 and 789.6 shall not apply to transportation ticket policies and baggage insurance policy types allowable for sale by travel agents pursuant to Section 1753.

SEC. 2. Section 786.5 of the Insurance Code is amended to read:

786.5. (a) All brokers, agents, or other entities offering a policy or certificate of disability insurance to persons age 65 or older in this state shall provide the prospective insured with a full and accurate written comparison with existing health coverage, and shall explain the relationship of the proposed coverage to any existing health benefits provided by Medicare, Medi-Cal, or any other health benefits available to the applicant. The written comparison shall be maintained in accordance with Section 10508.5.

(b) The commissioner may prescribe a standard comparison form and an informational brochure which shall be distributed to every prospective insured at the time insurance is offered for sale by an agent, broker, or other producer. In the case of a transportation ticket policy, the informational brochures shall be delivered to the prospective insured no later than delivery of the policy or certificate.

SEC. 3. Section 788.5 of the Insurance Code is amended to read:

788.5. No insurer, broker, agent, or other person shall cause an insured aged 65 years or older to replace a disability insurance policy or certificate unnecessarily.

(a) No insurer, broker, agent, or other entity within the jurisdiction of the department shall promote or cause overloading of disability coverage to persons aged 65 years or older. For purposes of this section, "overloading" means possession by an insured of functionally identical coverages that overlap or duplicate benefits to the extent that a reasonable person would not consider their ownership to be cost-effective.

(b) It shall be presumed that the sale of disability insurance that is the subject of this article, sold to a person aged 65 years or older, is overloading, as defined in subdivision (a), if the insured is already covered by Medicare Parts A and B as well as one Medicare supplement policy, certificate, or contract and coverage for excess charges under Part B.

(c) The application for disability insurance for a person age 65 years or older shall contain a question or questions designed to elicit information regarding all other existing health and disability coverage in force by type and company.

SEC. 4. Section 789.6 is added to the Insurance Code, to read:

789.6. (a) Insurance policies or certificates of disability insurance sold to persons age 65 or older shall return to policyholders or certificate holders benefits that have a minimum loss ratio of 60

percent for individual policies and 75 percent for group policies. The loss ratio shall be on the basis of incurred claims experience and earned premiums.

(b) The commissioner shall require every entity providing insurance policies or certificates of disability insurance sold to persons age 65 or older in this state to maintain detailed experience data for policies and certificates subject to this section and require them to make an annual filing with the commissioner disclosing the loss ratio for each policy form or certificate subject to this section. The annual filing shall, at a minimum, include rates, rating schedules, and supporting documentation including ratios of incurred losses to earned premiums by number of years of policy duration. That information shall demonstrate that each policy form or certificate is in compliance with the applicable loss ratio standards.

(c) The commissioner shall assure that reserves are reasonable and based on sound actuarial principles with respect to the aggregate dollar amount of reserves for claims that are incurred but not yet paid, and for claims that are incurred but not yet reported.

(d) Policy forms or certificates shall be deemed to comply with the purposes of this section if the expected losses in relation to premiums over the entire period for which the policy form is rated comply with the requirements of this section and either of the following applies:

(1) For policies or certificates that have been in force for three years of more, for the most recent year the ratio of incurred losses to earned premiums is greater than or equal to the minimum loss ratios established by this section.

(2) For policies or certificates that have been in force for three years or less, the expected third year loss ratio can be demonstrated to be greater than or equal to the minimum loss ratio.

(e) If the annual filing or other information received by the commissioner indicates that the actual loss ratio for a policy or certificate is less than the minimum loss ratio established by this section, the commissioner shall require that the insurer or entity providing the insurance file and implement a corrective plan. This plan shall include the utilization of premium reductions, dividends, benefit increases, or any combination of these or other methods so that the minimum loss ratio can be reasonably expected to be achieved. Any corrective plan shall be reviewed and approved by the commissioner prior to implementation.

(f) If, in the opinion of the commissioner, a policy's or certificate's failure to meet the minimum loss ratio requirements is due to unusual reserve fluctuations, economic conditions, or other nonrecurring conditions, the commissioner may exempt the policy or certificate from the need for a corrective plan for that year. Any exemption shall be in writing and shall specify the reasons for the granting of the exemption.

(g) If the insurer or other entity providing disability insurance to persons 65 years of age or older in this state fails to file and implement

a corrective plan in a timely manner, the commissioner shall withdraw approval of the policy or certificate according to the procedures set forth in Section 10293. This remedy is in addition to any remedy available in that section or under other laws of this state. Any report, plan, exemption, or other document prepared pursuant to this section shall be accessible to the public as a public record.

(h) The commissioner may adopt regulations to implement or administer this article.

SEC. 5. Section 789.7 is added to the Insurance Code, to read:

789.7. (a) Sales of disability insurance regulated by this article, as well as Medicare supplement insurance and long-term care insurance sold to persons aged 65 years or older, shall be registered by the insurer with the commissioner. The commissioner shall provide facilities for the computerized recordkeeping of all registered policies and certificates. The commissioner shall adopt regulations to implement and administer registration pursuant to this section. Regulations shall include, but need not be limited to, a system for assessing insurers in accordance with each insurer's market share in order to finance the cost of registration, an appropriate method and schedule for the filing of data with the commissioner, the content and format required for each filing in accordance with subdivision (d), appropriate sanctions for failure to comply with this section or with regulations promulgated under this section, and criteria for releasing the registered information to parties outside the department.

(b) Access to the registered information, including the identity of policyholders, shall be strictly limited to the department, with the exception that the Attorney General, a district attorney, or city attorney may be granted access upon request for the purpose of investigating or prosecuting suspected unlawful practices or for purposes of this article. The commissioner may, at his or her discretion, allow access to the registered information to the Health Insurance Counseling and Advocacy Program in the Department of Aging.

(c) Access to registered information in a purely statistical format, which neither identifies nor enables identification of a particular policyholder, may be released at the discretion of the commissioner to any party who demonstrates that the information will be used only for other than commercial purposes.

(d) The content of the filing shall contain no more than the following information:

(1) Policyholder's Medicare identification number or social security number. The policyholder's name shall be specifically excluded from the filing.

(2) A description of the policy as being Medicare supplemental insurance; long-term care insurance; or disability insurance.

(3) Date of sale.

(4) Date of lapse.

(5) Whether the policy is in force as of the date of the filing.

(6) The policy form number, if applicable.

(7) The name of any insurer, broker, agent, or other person engaged in the transaction of insurance who was responsible for the sale of the policy.

CHAPTER 1117

An act to add Section 55338 to the Water Code, relating to water, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 55338 is added to the Water Code, to read:

55338. (a) The Department of Corrections and the Los Angeles County Waterworks District No. 4 shall enter into a contract for the district to meet the operational needs of the California State Prison—Los Angeles County for water, to be supplied to the district by the Antelope Valley-East Kern Water Agency.

(b) The Department of Corrections shall use the water supplied to it by the Los Angeles County Waterworks District No. 4 pursuant to subdivision (a) as its primary source of water and shall use the Antelope Valley groundwater basin only as a supplementary source of drinking water or as an emergency backup supply.

(c) Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to any action undertaken pursuant to subdivision (a) or (b).

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to facilitate the provision of water to the California State Prison—Los Angeles County by the Los Angeles County Waterworks District No. 4, as soon as possible, thereby protecting the public health and safety, it is necessary that this act take effect immediately.

CHAPTER 1118

An act to amend Sections 25995, 25995.1, 25995.3, 25995.4, 25995.5, 25995.8, and 25996.91 of, to add Sections 25995.60, 25995.70, 25995.71, 25995.72, 25995.73, 25995.74, 25995.75, 25995.76, 25995.77, 25995.78, and 25996.10 to, and to add Chapter 13.7 (commencing with Section 25989.500) to Division 20 of, the Health and Safety Code, relating to dogs and cats.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Chapter 13.7 (commencing with Section 25989.500) is added to Division 20 of the Health and Safety Code, to read:

CHAPTER 13.7. SALE OF DOGS BY BREEDERS

25989.500. (a) This chapter shall be known and may be cited as the Polanco-Lockyer Pet Breeder Warranty Act.

(b) Every breeder of dogs shall comply with this chapter. As used in this chapter, "dog breeder," or "breeder" means a person, firm, partnership, corporation, or other association that has sold, transferred, or given away 50 or more dogs during the proceeding calendar year that were bred and reared on the premises of the person, firm, partnership, corporation, or other association.

(c) For the purposes of this chapter, "purchaser" means any person who purchases a dog from a breeder.

(d) This chapter shall not apply to pet dealers regulated under Chapter 14.5 (commencing with Section 25995), or to publicly operated pounds, humane societies, or privately operated rescue organizations.

25989.505. (a) Every breeder of dogs shall deliver to each purchaser of a dog a written disclosure containing all of the following:

(1) The breeder's name and address. If the breeder is a dealer licensed by the United States Department of Agriculture, the federal dealer identification number shall also be indicated.

(2) The date of the dog's birth and the date the breeder received the dog. If the dog is not advertised or sold as purebred, registered, or registerable, the date of birth may be approximated if not known by the breeder.

(3) The breed, sex, color, and identifying marks at the time of sale, if any. If the dog is from a United States Department of Agriculture licensed source, the individual identifying tag, tattoo, or collar number for that animal. If the breed is unknown or mixed, the record shall so indicate.

(4) If the dog is being sold as being capable of registration, the names and registration numbers of the sire and dam, and the litter

number, if known.

(5) A record of inoculations and worming treatments administered, if any, to the dog as of the time of sale, including dates of administration and the type of vaccine or worming treatment.

(6) A record of any veterinarian treatment or medication received by the dog while in the possession of the breeder and either of the following:

(A) A statement, signed by the breeder at the time of sale, that:

(i) The dog has no known disease or illness.

(ii) The dog has no known congenital or hereditary condition that adversely affects the health of the dog at the time of the sale or that is likely to adversely affect the health of the dog in the future.

(B) A record of any known disease, illness, or congenital or hereditary condition that adversely affects the health of the dog at the time of sale, or that is likely to affect the health of the dog in the future, along with a statement signed by a veterinarian licensed in the State of California that authorizes the sale of the dog, recommends necessary treatment, if any, and verifies that the disease, illness, or condition does not require hospitalization or nonelective surgical procedures, nor is it likely to require hospitalization or nonelective surgical procedures in the future. A veterinarian statement is not required for intestinal or external parasites unless their presence makes the dog clinically ill or is likely to make the dog clinically ill. The statement shall be valid for seven days following examination of the dog by the veterinarian.

(b) The written disclosure made pursuant to this section shall be signed by both the breeder certifying the accuracy of the statement, and by the purchaser of the dog acknowledging receipt of the statement.

(c) In addition, all medical information required to be disclosed pursuant to this section shall be made orally by the breeder to the purchaser.

(d) For purposes of this chapter, a disease, illness, or congenital or hereditary condition that adversely affects the health of the dog at the time of sale, or is likely to adversely affect the health of the dog in the future, shall be one which is apparent at the time of sale or which should have been known by the breeder from the history of veterinary treatment disclosed pursuant to this section.

(e) For the purpose of this chapter, "nonelective surgical procedure" means a surgical procedure that is necessary to preserve or restore the health of the dog, to prevent the dog from experiencing pain or discomfort, or to correct a condition that would otherwise interfere with the dog's ability to walk, run, jump, or otherwise function in a normal manner.

(f) For the purposes of this chapter, "clinically ill" means an illness which is apparent to a veterinarian based on observation, examination, or testing of the dog, or upon a review of the medical records relating to the dog.

25989.510. A breeder shall maintain a written record on the

health, status, and disposition of each dog for a period of not less than one year after disposition of the dog. The record shall also include all of the information which the breeder is required to disclose pursuant to Section 25989.505.

25989.520. Except as provided for in paragraph (6) of subdivision (a) of Section 25989.505, no breeder shall knowingly sell a dog which is diseased, ill or has a condition, any one of which that requires hospitalization or nonelective surgical procedures. In lieu of the civil penalties imposed pursuant to Section 25989.570, any breeder who violates this section shall be subject to a civil penalty of up to one thousand dollars ($1,000), or shall be prohibited from selling dogs for up to 30 days, or both. If there is a second offense, the breeder shall be subject to a civil penalty of up to two thousand five hundred dollars ($2,500), or a prohibition from selling dogs for up to 90 days, or both. For a third offense, the breeder shall be subject to a civil penalty of up to five thousand dollars ($5,000), or a prohibition from selling dogs for up to six months, or both. For a fourth and subsequent offense, the breeder shall be subject to a civil penalty of up to ten thousand dollars ($10,000) or a prohibition from selling dogs for up to one year, or both. For the purpose of this section, a violation which occurred over five years prior to the most recent violation shall not be considered.

An action for recovery of the civil penalty and for a court order enjoining the breeder from engaging in the business of selling dogs at retail for the period set forth in this section, may be prosecuted by the district attorney for the county in which the violation occurred, or the city attorney for the city in which the violation occurred, in the appropriate court.

25989.525. It shall be unlawful for a breeder to fail to do any of the following:

(a) Maintain facilities in which the dogs are kept in a sanitary condition.

(b) Provide dogs with adequate nutrition and potable water.

(c) Provide adequate space appropriate to the age, size, weight, and breed of dog. For purposes of this subdivision, "adequate space" means sufficient space for the dog to stand up, sit down, and turn about freely using normal body movements, without the head touching the top of the cage, and to lie in a natural position.

(d) Provide dogs housed on wire flooring with a rest board, floormat, or similar device that can be maintained in a sanitary condition.

(e) Provide dogs with adequate socialization and exercise. For the purpose of this chapter, "socialization" means physical contact with other dogs or with human beings.

(f) Wash hands before and after handling each infectious or contagious dog.

(g) Provide veterinary care without delay when necessary.

25989.530. (a) If a licensed veterinarian states in writing that within 15 days after the purchaser has taken physical possession of a

dog following the sale by a breeder, the dog has become ill due to any illness or disease which existed in the dog on or before delivery of the dog to the purchaser, or, if within one year after the purchaser has taken physical possession of the dog after the sale by a breeder, a veterinarian licensed in this state states in writing that the dog has a congenital or hereditary condition which adversely affects the health of the dog, or which requires, or is likely in the future to require, hospitalization or nonelective surgical procedures, the dog shall be considered unfit for sale, and the breeder shall provide the purchaser with any of the following remedies which the purchaser elects:

(1) Return the dog to the breeder for a refund of the purchase price, plus sales tax, and reimbursement for reasonable veterinary fees for diagnosis and treating the dog in an amount not to exceed the original purchase price of the dog, including sales tax.

(2) Exchange the dog for a dog of the purchaser's choice of equivalent value, providing a replacement dog is available, and receive reimbursement for reasonable veterinary fees for diagnosis and treating the dog in an amount not to exceed the original purchase price of the dog, plus sales tax on the original purchase price of the dog.

(3) Retain the dog, and receive reimbursement for reasonable veterinary fees for diagnosis and treating the dog in an amount not to exceed 150 percent of the original purchase price of the dog, plus sales tax.

(b) If the dog has died, regardless of the date of death of the dog, obtain a refund for the purchase price of the dog, plus sales tax, or a replacement dog of equivalent value of the purchaser's choice, and reimbursement for reasonable veterinary fees for diagnosis and treatment of the dog in an amount not to exceed the purchase price of the dog, plus sales tax, if any of the following conditions exist:

(1) A veterinarian, licensed in this state, states in writing that the dog has died due to an illness or disease which existed within 15 days after the purchaser obtained physical possession of the dog after the sale by a breeder.

(2) A veterinarian, licensed in this state, states in writing that the dog has died due to a congenital or hereditary condition which was diagnosed by the veterinarian within one year after the purchaser obtained physical possession of the dog after the sale by a breeder.

25989.535. (a) There shall be a rebuttable presumption that an illness existed at the time of sale if the animal dies within 15 days of delivery to the purchaser.

(b) For purposes of Section 25989.530, a finding by a veterinarian of intestinal or external parasites shall not be grounds for declaring a dog unfit for sale unless their presence makes the dog clinically ill or is likely to make the dog clinically ill.

(c) For purposes of Section 25989.530, the value of veterinary services shall be deemed reasonable if the services rendered are appropriate for the diagnosis and treatment of illness or congenital

or hereditary condition made by the veterinarian and the value of the services is comparable to the value of similar services rendered by other licensed veterinarians in proximity to the treating veterinarian.

25989.540. To obtain the remedies provided for in Section 25989.530, the purchaser shall substantially comply with all of the following requirements:

(a) Notify the breeder as soon as possible but no later than five days of the diagnosis by a veterinarian licensed in this state of a medical or health problem, including a congenital or hereditary condition and of the name and telephone number of the veterinarian providing the diagnosis.

(b) Return the dog to the breeder, in the case of illness or congenital or hereditary condition, along with a written statement from a veterinarian licensed in this state, stating the dog to be unfit for purchase due to illness, a congenital or hereditary condition, or the presence of symptoms of a contagious or infectious disease, which existed on or before delivery of the dog to the purchaser, and which adversely affects the health of the dog. The purchaser shall return the dog along with a copy of the veterinarian's statement as soon as possible but no later than five days of receipt of the veterinarian's statement.

(c) Provide the breeder, in the event of death, with a written statement from a veterinarian licensed in this state stating that the dog died from an illness which existed on or before the delivery of the dog to the purchaser. The presentation of the statement shall be sufficient proof to claim reimbursement or replacement and the return of the deceased dog to the breeder shall not be required.

25989.545. No refund, replacement, or reimbursement of veterinary fees shall be made under Section 25989.530 if any of the following conditions exist:

(a) The illness, condition, or death resulted from maltreatment or neglect or from an injury sustained or an illness or condition contracted subsequent to the delivery of the dog to the purchaser.

(b) The purchaser fails to carry out the recommended treatment prescribed by the examining veterinarian who made the initial diagnosis. However, this subdivision shall not apply if the cost for the treatment together with the veterinarian's fee for the diagnosis would exceed the purchase price of the dog, plus sales tax.

(c) A veterinarian's statement was provided to the purchaser pursuant to subparagraph (B) of paragraph (6) of subdivision (a) of Section 25989.505 which disclosed the disease, illness, or condition for which the purchaser seeks to return the dog. However, this subdivision shall not apply if, within one year after the purchaser took physical possession of the dog, a veterinarian licensed in this state states in writing that the disease, illness, or condition requires, or is likely in the future to require, hospitalization or nonelective surgical procedures or that the disease, illness, or condition resulted in the death of the dog.

(d) The purchaser refuses to return to the breeder all documents previously provided to the purchaser for the purpose of registering the dog. This subdivision shall not apply if the purchaser signs a statement certifying that the documents have been inadvertently lost or destroyed.

25989.550. (a) The veterinarian's statement pursuant to Section 25989.530 shall contain all of the following information:

(1) The purchaser's name and address.

(2) The date or dates the dog was examined.

(3) The breed and age of the dog, if known.

(4) That the veterinarian examined the dog.

(5) That the dog has or had disease, illness, or a hereditary or congenital condition, as described in Section 25989.505 which renders it unfit for purchase or resulted in its death.

(6) The precise findings of the examination or necropsy, including laboratory results or copies of laboratory reports.

(b) If a refund for reasonable veterinary expenses is being requested, the veterinarian's statement shall be accompanied by an itemized bill of fees appropriate for the diagnosis and treatment of the illness or congenital or hereditary condition.

(c) Refunds and payment of reimbursable expenses provided for in Section 25989.530 shall be paid, unless contested, by the breeder to the purchaser not later than 10 business days following receipt of the veterinarian's statement required by Section 25989.530 or, where applicable, not later than 10 business days after the date on which the dog is returned to the breeder.

25989.555. (a) In the event that a breeder wishes to contest a demand for any of the remedies specified in Section 25989.530, the breeder may, except in the case of the death of the dog, require the purchaser to produce the dog for examination by a licensed veterinarian designated by the breeder. The breeder shall pay the cost of this examination.

(b) If the purchaser and the breeder are unable to reach an agreement within 10 business days following receipt by the breeder of the veterinarian's statement pursuant to Section 25989.530, or following receipt of the dog for examination by a veterinarian designated by the breeder, whichever is later, the purchaser may initiate an action in a court of competent jurisdiction to resolve the dispute or the parties may submit to binding arbitration if mutually agreed upon by the parties in writing.

(c) The prevailing party in the dispute shall have the right to collect reasonable attorney's fees if the other party acted in bad faith in seeking or denying the requested remedy.

25989.560. Every breeder that sells a dog shall provide the purchaser at the time of sale, and a prospective purchaser upon request, with a written notice of rights, setting forth the rights provided for under this section. The notice shall be contained in a separate document. The written notice of rights shall be in 10-point type. A copy of the written notice of rights shall be signed by the

purchaser acknowledging that he or she has reviewed the notice. The notice shall state the following:

"A STATEMENT OF CALIFORNIA LAW GOVERNING THE SALE OF DOGS

The sale of dogs is subject to consumer protection regulation. In the event that a California licensed veterinarian states in writing that your dog is unfit for purchase because it became ill due to an illness or disease which existed within 15 days following delivery to you, or within one year in the case of congenital or hereditary condition, you may choose one of the following:

(1) Return your dog and receive a refund of the purchase price, plus sales tax, and receive reimbursement for reasonable veterinarian fees up to the cost of the dog, plus sales tax.

(2) Return your dog and receive a dog of your choice of equivalent value, providing a replacement dog is available, and receive reimbursement for reasonable veterinarian fees up to the cost of the dog, plus sales tax.

(3) Keep the dog and receive reimbursement for reasonable veterinarian fees up to 150 percent of the original purchase price of the dog plus sales tax on the original purchase price of the dog.

In the event your dog dies, you may receive a refund for the purchase price of the dog, plus sales tax, or a replacement dog of your choice, of equivalent value, and reimbursement for reasonable veterinary fees for the diagnosis and treatment of the dog, if a veterinarian, licensed in this state, states in writing that the dog has died due to an illness or disease which existed within 15 days after the purchaser obtained physical possession of the dog after the sale by a dog breeder, or states that the dog has died due to a congenital or hereditary condition which was diagnosed by the veterinarian within one year after the purchaser obtained physical possession of the dog after the sale by a dog breeder. These fees may not exceed the purchase price of the dog, plus sales tax.

In order to exercise these rights, you must notify the dog breeder as quickly as possible but no later than five days after learning from your veterinarian that a problem exists. You must tell the dog breeder about the problem and give the dog breeder the name and telephone number of the veterinarian providing the diagnosis.

If you are making a claim, you must also present to the dog breeder a written veterinary statement, in a form prescribed by law, that the animal is unfit for purchase and an itemized statement of all veterinary fees related to the claim. This information must be presented to the dog breeder no later than five days after you have received the written statement from the veterinarian.

In the event that the dog breeder wishes to contest the statement or the veterinarian's bill, the dog breeder may request that you produce the dog for examination by a licensed veterinarian of the dog breeder's choice. The dog breeder shall pay the cost of this

examination.

In the event of death, the deceased dog need not be returned to the dog breeder if you submit a statement issued by a licensed veterinarian stating the cause of death.

If the parties cannot resolve the claim within 10 business days following receipt of the veterinarian statement or the examination by the dog breeder's veterinarian, whichever event occurs later, you may file an action in a court of competent jurisdiction to resolve the dispute. If a party acts in bad faith, the other party may collect reasonable attorney's fees. If the dog breeder does not contest the matter, the dog breeder must make the refund or reimbursement no later than 10 business days after receiving the veterinary certification.

This statement is a summary of key provisions of the consumer remedies available. California law also provides safeguards to protect dog breeders from abuse. If you have questions, obtain a copy of the complete relevant statutes.

This notice shall be contained in a separate document. The written notice shall be in 10-point type. The notice shall be signed by the purchaser acknowledging that he or she has reviewed the notice. The dog breeder shall permit persons to review the written notice upon request.

NOTE: This disclosure of rights is a summary of California law. The actual statutes are contained in Chapter 13.7 (commencing with Section 25989.500) of Division 20 of the Health and Safety Code."

25989.565. Nothing in this chapter shall in any way limit the rights or remedies which are otherwise available to a consumer under any other law. Nor shall this chapter in any way limit the breeder and the purchaser from agreeing between themselves upon additional terms and conditions that are not inconsistent with this chapter. However, any agreement or contract by a purchaser to waive any rights under this chapter shall be null and void and shall be unenforceable.

25989.570. (a) Except as otherwise specified herein, any person violating any provision of this chapter other than Section 25989.520 shall be subject to civil penalty of up to one thousand dollars ($1,000) per violation. An action may be prosecuted in the name of the people of the State of California by the district attorney for the county in which the violation occurred in the appropriate court or by the city attorney in the city in which the violation occurred.

(b) Nothing in this chapter limits or authorizes any act or omission which violates Section 597*l* of the Penal Code.

SEC. 2. Section 25995 of the Health and Safety Code is amended to read:

25995. (a) This chapter shall be known and may be cited as the Lockyer-Polanco-Farr Pet Protection Act.

(b) Every pet dealer of dogs and cats shall conform to the provisions of this chapter. As used in this chapter, " pet dealer" means a person engaging in the business of selling dogs or cats, or both, at retail, and by virtue of such sales of dogs and cats is required

to possess a permit pursuant to Section 6066 of the Revenue and Taxation Code. For purposes of this chapter, the separate sales of dogs or cats from a single litter shall constitute only one sale under Section 6019 of the Revenue and Taxation Code. This definition does not apply to breeders of dogs regulated pursuant to Chapter 13.7 (commencing with Section 25989.500) nor to any person, firm, partnership, corporation, or other association, that breeds or rears dogs on the premises of the person, firm, partnership, corporation, or other association, that has sold, transferred, or given away fewer than 50 dogs in the preceding year.

(c) For purposes of this chapter, "purchaser" means a person who purchases a dog or cat from a pet dealer without the intent to resell the animal.

(d) This chapter shall not apply to publicly operated pounds and humane societies.

SEC. 3. Section 25995.1 of the Health and Safety Code is amended to read:

25995.1. Every pet dealer receiving dogs or cats from a common carrier shall transport, or have transported, dogs and cats from the carrier's premises within four hours after receipt of telephone notification by the carrier of the completion of shipment and arrival of the animal at the carrier's point of destination.

SEC. 4. Section 25995.3 of the Health and Safety Code, as amended by Chapter 58 of the Statutes of 1991, is amended to read:

25995.3. Every pet dealer shall deliver to the purchaser of each dog and cat at the time of sale a written statement in a standardized form prescribed by the Department of Consumer Affairs containing the following information:

(a) For cats:

(1) The breeder's and broker's name and address, if known, or if not known, the source of the cat. If the person from whom the cat was obtained is a dealer licensed by the United States Department of Agriculture, the person's name, address, and federal dealer identification number.

(2) The date of the cat's birth, unless unknown because of the source of such cat and the date the dealer received the cat.

(3) A record of the immunizations and worming treatments administered, if any, to the cat as of the time of sale, including the dates of administration and the type of vaccine or worming treatment.

(4) A record of any known disease or sickness that the cat is afflicted with at the time of sale. In addition, this information shall also be orally disclosed to the purchaser.

(b) For dogs:

(1) The breeder's name and address, if known, or if not known, the source of the dog. If the person from whom the dog was obtained is a dealer licensed by the United States Department of Agriculture, the person's name, address, and federal dealer identification number.

(2) The date of the dog's birth, and the date the dealer received the dog. If the dog is not advertised or sold as purebred, registered, or registerable, the date of birth may be approximated if not known by the seller.

(3) The breed, sex, color, and identifying marks at the time of sale, if any. If the dog is from a United States Department of Agriculture licensed source, the individual identifying tag, tattoo, or collar number for that animal. If the breed is unknown or mixed, the record shall so indicate.

(4) If the dog is being sold as being capable of registration, the names and registration numbers of the sire and dam, and the litter number, if known.

(5) A record of inoculations and worming treatments administered, if any, to the dog as of the time of sale, including dates of administration and the type of vaccine or worming treatment.

(6) A record of any veterinarian treatment or medication received by the dog while in the possession of the pet dealer and either of the following:

(A) A statement, signed by the pet dealer at the time of sale, containing all of the following:

(i) The dog has no known disease or illness.

(ii) The dog has no known congenital or hereditary condition that adversely affects the health of the dog at the time of the sale or that is likely to adversely affect the health of the dog in the future.

(B) A record of any known disease, illness, and any congenital or hereditary condition which adversely affects the health of the dog at the time of sale, or is likely to adversely affect the health of the dog in the future, along with a statement signed by a veterinarian licensed in the State of California which authorizes the sale of the dog, recommends necessary treatment, if any, and verifies that the disease, illness, or condition does not require hospitalization or nonelective surgical procedures, nor is it likely to require hospitalization or nonelective surgical procedures in the future. A veterinarian statement is not required for intestinal or external parasites unless their presence makes the dog clinically ill or is likely to make the dog clinically ill. The statement shall be valid for seven days following examination of the dog by the veterinarian.

(c) For the purpose of this chapter, "nonelective surgical procedure" means a surgical procedure that is necessary to preserve or restore the health of the dog, to prevent the dog from experiencing pain or discomfort, or to correct a condition that would interfere with the dog's ability to walk, run, jump, or otherwise function in a normal manner.

(d) For the purposes of this chapter, "clinically ill" means an illness which is apparent to a veterinarian based on observation, examination, or testing of the dog, or upon a review of the medical records relating to the dog.

(e) A disclosure made pursuant to subdivision (b) shall be signed by both the pet dealer certifying the accuracy of the statement, and

the purchaser of the dog acknowledging receipt of the statement. In addition, all medical information required to be disclosed pursuant to subdivision (b) shall be made orally to the purchaser.

(f) For purposes of chapter, a disease, illness, or congenital or hereditary condition which adversely affects the health of a dog at the time of sale or is likely to adversely affect the health of the dog in the future shall be one which is apparent at the time of sale or which should have been known by the pet dealer from the history of veterinary treatment disclosed pursuant to this section.

SEC. 5. Section 25995.4 of the Health and Safety Code is amended to read:

25995.4. A pet dealer shall maintain a written record on the health, status, and disposition of each dog and each cat for a period of not less than one year after disposition of the dog or cat. The record shall also contain all of the information required to be disclosed pursuant to Sections 25995.3 and 25996.91. Those records shall be available to humane officers, animal control officers, and law enforcement officers for inspection during normal business hours.

SEC. 6. Section 25995.5 of the Health and Safety Code is amended to read:

25995.5. (a) Except as otherwise specified herein, any person violating any provision of this chapter other than Section 25995.8 shall be subject to a civil penalty of up to one thousand dollars ($1,000) per violation. The action may be prosecuted in the name of the people of the State of California by the district attorney for the county in which the violation occurred in the appropriate court or by the city attorney in the city in which the violation occurred.

(b) Nothing in this chapter limits or authorizes any act or omission which violates Section 597*l* of the Penal Code.

SEC. 7. Section 25995.60 is added to the Health and Safety Code, immediately following Section 25995.5, to read:

25995.60. (a) It shall be unlawful for a pet dealer to fail to do any of the following:

(1) Maintain facilities in which the dogs are kept in a sanitary condition.

(2) Provide dogs with adequate nutrition and potable water.

(3) Provide adequate space appropriate to the age, size, weight, and breed of dog. Adequate space means sufficient space for the dog to stand up, sit down, and turn about freely using normal body movements, without the head touching the top of the cage, and to lie in a natural position.

(4) Provide dogs housed on wire flooring with a rest board, floormat, or similar device that can be maintained in a sanitary condition.

(5) Provide dogs with adequate socialization and exercise. For the purpose of this chapter "socialization" means physical contact with other dogs or with human beings.

(6) Wash hands before and after handling each infectious or contagious dog.

(7) Maintain either of the following:

(A) A fire alarm system that is connected to a central reporting station which alerts the local fire department in case of fire.

(B) Maintain a fire suppression sprinkler system.

(8) Provide veterinary care without delay when necessary.

(b) A pet dealer shall not be in possession of a dog which is less than eight weeks old.

SEC. 8. Section 25995.70 is added to the Health and Safety Code, immediately following Section 25995.60, to read:

25995.70. (a) If a licensed veterinarian states in writing that within 15 days after the purchaser has taken physical possession of the dog after the sale by a pet dealer, the dog has become ill due to any illness which existed in the dog on or before delivery of the dog to the purchaser, or, if within one year after the purchaser has taken physical possession of the dog after the sale, a veterinarian licensed in this state states in writing that the dog has a congenital or hereditary condition which adversely affects the health of the dog, or which requires, or is likely in the future to require, hospitalization or nonelective surgical procedures, the dog shall be considered unfit for sale, and the pet dealer shall provide the purchaser with any of the following remedies which the purchaser elects:

(1) Return the dog to the pet dealer for a refund of the purchase price, plus sales tax, and reimbursement for reasonable veterinary fees for diagnosis and treating the dog in an amount not to exceed the original purchase price of the dog, plus sales tax.

(2) Exchange the dog for a dog of the purchaser's choice of equivalent value, providing a replacement dog is available, and reimbursement for reasonable veterinary fees for diagnosis and treating the dog in an amount not to exceed the original purchase price of the dog, plus sales tax.

(3) Retain the dog, and reimbursement for reasonable veterinary fees for diagnosis and treating the dog in an amount not to exceed 150 percent of the original purchase price of the dog, plus sales tax on the original purchase price of the dog.

(b) If the dog has died, regardless of the date of the death of the dog, obtain a refund for the purchase price of the dog, plus sales tax, or a replacement dog of equivalent value of the purchaser's choice and reimbursement for reasonable veterinary fees in diagnosis and treatment of the dog in an amount not to exceed the original purchase price of the dog, plus sales tax, if either of the following conditions exist:

(1) A veterinarian, licensed in this state, states in writing that the dog has died due to an illness or disease which existed within 15 days after the purchaser obtained physical possession of the dog after the sale by a pet dealer.

(2) A veterinarian, licensed in this state, states in writing that the dog has died due to a congenital or hereditary condition which was diagnosed by the veterinarian within one year after the purchaser obtained physical possession of the dog after the sale by a pet dealer.

SEC. 9. Section 25995.71 is added to the Health and Safety Code, to read:

25995.71. (a) There shall be a rebuttable presumption that an illness existed at the time of sale if the animal dies within 15 days of delivery to the purchaser.

(b) For purposes of Section 25995.70, a finding by a veterinarian of intestinal or external parasites shall not be grounds for declaring a dog unfit for sale unless their presence makes the dog clinically ill or is likely to make the dog clinically ill.

(c) For purposes of Section 25995.70, the value of veterinary services shall be deemed reasonable if the services rendered are appropriate for the diagnosis and treatment of illness or congenital or hereditary condition, made by the veterinarian and the value of similar services is comparable to the value of similar services rendered by other licensed veterinarians in proximity to the treating veterinarian.

SEC. 10. Section 25995.72 is added to the Health and Safety Code, to read:

25995.72. To obtain the remedies provided for in Section 25995.70, the purchaser shall substantially comply with all of the following requirements:

(a) Notify the pet dealer as soon as possible but not more than five days after the diagnosis by a veterinarian licensed in this state of a medical or health problem, including a congenital or hereditary condition and of the name and telephone number of the veterinarian providing the diagnosis.

(b) Return the dog to the pet dealer, in the case of illness, along with a written statement from a veterinarian licensed in this state, stating the dog to be unfit for purchase due to illness, a congenital or hereditary condition, or the presence of symptoms of a contagious or infectious disease, which existed on or before delivery of the dog to the purchaser, and which adversely affects the health of the dog. The purchaser shall return the dog along with a copy of the veterinarian's statement as soon as possible but not more than five days after receipt of the veterinarian's statement.

(c) Provide the pet dealer, in the event of death, with a written statement from a veterinarian licensed in this state stating that the dog died from an illness which existed on or before the delivery of the dog to the purchaser. The presentation of the statement shall be sufficient proof to claim reimbursement or replacement and the return of the deceased dog to the pet dealer shall not be required.

SEC. 11. Section 25995.73 is added to the Health and Safety Code, to read:

25995.73. Notwithstanding the provisions of Section 25995.70, no refund, replacement, or reimbursement of veterinary fees shall be made if any of the following conditions exist:

(a) The illness or death resulted from maltreatment or neglect or from an injury sustained or an illness contracted subsequent to the delivery of the dog to the purchaser.

(b) The purchaser fails to carry out the recommended treatment prescribed by the examining veterinarian who made the initial diagnosis. However, this subdivision shall not apply if the cost for the treatment together with the veterinarian's fee for the diagnosis would exceed the purchase price of the dog, including sales tax.

(c) A veterinarian's statement was provided to the purchaser pursuant to subparagraph (B) of paragraph (6) of subdivision (b) of Section 25995.3 which disclosed the disease, illness, or condition for which the purchaser seeks to return the dog. However, this paragraph shall not apply if, within one year after the purchaser took physical possession of the dog, a veterinarian licensed in this state states in writing that the disease, illness, or condition requires, or is likely in the future to require, hospitalization or nonelective surgical procedures or that the disease, illness, or condition resulted in the death of the dog.

(d) The purchaser refuses to return to the pet dealer all documents previously provided to the purchaser for the purpose of registering the dog. This subdivision shall not apply if the purchaser signs a written statement certifying that the documents have been inadvertently lost or destroyed.

SEC. 12. Section 25995.74 is added to the Health and Safety Code, to read:

25995.74. (a) The veterinarian's statement pursuant to Section 25995.70 shall contain the following information:

(1) The purchaser's name and address.

(2) The date or dates the dog was examined.

(3) The breed and age of the dog, if known.

(4) That the veterinarian examined the dog.

(5) That the dog has or had an illness described in this section which renders it unfit for purchase or resulted in its death.

(6) The precise findings of the examination or necropsy, including laboratory results or copies of laboratory reports.

(b) If a refund for reasonable veterinary expenses is being requested, the veterinary statement shall be accompanied by an itemized bill of fees appropriate for the diagnosis and treatment of the illness or congenital or hereditary condition.

(c) Refunds and payment of reimbursable expenses provided for by Section 25995.70 shall be paid, unless contested, by the pet dealer to the purchaser not later than 10 business days following receipt of the veterinarian's statement required by Section 25995.70 or, where applicable, not later than 10 business days after the date on which the dog is returned to the pet dealer.

SEC. 13. Section 25995.75 is added to the Health and Safety Code, to read:

25995.75. (a) In the event that a pet dealer wishes to contest a demand for any of the remedies specified in Section 25995.70, the dealer may, except in the case of the death of the dog, require the purchaser to produce the dog for examination by a licensed veterinarian designated by the pet dealer. The pet dealer shall pay

the cost of this examination.

(b) If the purchaser and the pet dealer are unable to reach an agreement within 10 business days following receipt by the pet dealer of the veterinarian's statement pursuant to Section 25995.70, or following receipt of the dog for examination by a veterinarian designated by the pet dealer, whichever is later, the purchaser may initiate an action in a court of competent jurisdiction to resolve the dispute or the parties may submit to binding arbitration if mutually agreed upon by the parties in writing.

(c) The prevailing party in the dispute shall have the right to collect reasonable attorney's fees if the other party acted in bad faith in seeking or denying the requested remedy.

SEC. 14. Section 25995.76 is added to the Health and Safety Code, to read:

25995.76. Every pet dealer that sells a dog shall provide the purchaser at the time of sale, and a prospective purchaser upon request, with a written notice of rights, setting forth the rights provided for under this section. The notice shall be contained in a separate document. The written notice of rights shall be in 10-point type. A copy of the written notice of rights shall be signed by the purchaser acknowledging that he or she has reviewed the notice. The notice shall state the following:

"A STATEMENT OF CALIFORNIA LAW GOVERNING THE SALE OF DOGS

The sale of dogs is subject to consumer protection regulations. In the event that a California licensed veterinarian states in writing that your dog is unfit for purchase because it became ill due to an illness or disease which existed within 15 days following delivery to you, or within one year in the case of congenital or hereditary condition, you may choose one of the following:

(1) Return your dog and receive a refund of the purchase price, plus sales tax, and receive reimbursement for reasonable veterinarian fees up to the cost of the dog plus sales tax.

(2) Return your dog and receive a dog of your choice of equivalent value, providing a replacement dog is available, and receive reimbursement for reasonable veterinarian fees up to the cost of the dog, plus sales tax.

(3) Keep the dog and receive reimbursement for reasonable veterinarian fees up to 150 percent of the original purchase price of the dog plus sales tax on the original purchase price of the dog.

In the event your dog dies, you may receive a refund for the purchase price of the dog, plus sales tax, or a replacement dog of your choice, of equivalent value, and reimbursement for reasonable veterinary fees for the diagnosis and treatment of the dog, if a veterinarian, licensed in this state, states in writing that the dog has died due to an illness or disease which existed within 15 days after the purchaser obtained physical possession of the dog after the sale

by a pet dealer, or states that the dog has died due to a congenital or hereditary condition which was diagnosed by the veterinarian within one year after the purchaser obtained physical possession of the dog after the sale by a pet dealer. These fees may not exceed the purchase price of the dog, plus sales tax.

In order to exercise these rights, you must notify the pet dealer as quickly as possible but no later than five days after learning from your veterinarian that a problem exists. You must tell the pet dealer about the problem and give the pet dealer the name and telephone number of the veterinarian providing the diagnosis.

If you are making a claim, you must also present to the pet dealer a written veterinary statement, in a form prescribed by law, that the animal is unfit for purchase and an itemized statement of all veterinary fees related to the claim. This information must be presented to the pet dealer no later than five days after you have received the written statement from the veterinarian.

In the event that the pet dealer wishes to contest the statement or the veterinarian's bill, the pet dealer may request that you produce the dog for examination by a licensed veterinarian of the pet dealer's choice. The pet dealer shall pay the cost of this examination.

In the event of death, the deceased dog need not be returned to the pet dealer if you submit a statement issued by a licensed veterinarian stating the cause of death.

If the parties cannot resolve the claim within 10 business days following receipt of the veterinarian statement or the examination by the pet dealer's veterinarian, whichever event occurs later, you may file an action in a court of competent jurisdiction to resolve the dispute. If a party acts in bad faith, the other party may collect reasonable attorney's fees. If the pet dealer does not contest the matter, the pet dealer must make the refund or reimbursement no later than 10 business days after receiving the veterinary certification.

If the pet dealer has represented your dog as registerable with a pedigree organization, the pet dealer shall provide you with the necessary papers to process the registration within 120 days following the date you received the dog. If the pet dealer fails to deliver the papers within the prescribed time frame, you are entitled to return the dog for a full refund of the purchase price, including sales tax, or a refund of 75 percent of the purchase price, including sales tax if you choose to keep the dog.

This statement is a summary of key provisions of the consumer remedies available. California law also provides safeguards to protect pet dealers from abuse. If you have any questions, obtain a copy of the complete relevant statutes.

This notice shall be contained in a separate document. The written notice shall be in 10-point type. The notice shall be signed by the purchaser acknowledging that he or she has reviewed the notice. The pet dealer shall permit persons to review the written notice upon request.

NOTE: This disclosure of rights is a summary of California law. The actual statutes are contained in Chapter 14.5 (commencing with Section 25995) of Division 20 of the Health and Safety Code."

SEC. 15. Section 25995.77 is added to the Health and Safety Code, to read:

25995.77. Nothing in this chapter shall in any way limit the rights or remedies which are otherwise available to a consumer under any other law. Nor shall this chapter in any way limit the pet dealer and the purchaser from agreeing between themselves upon additional terms and conditions that are not inconsistent with this chapter. However, any agreement or contract by a purchaser to waive any rights under this chapter shall be null and void and shall be unenforceable.

SEC. 16. Section 25995.78 is added to the Health and Safety Code, to read:

25995.78. (a) A pet dealer shall not state, promise, or represent to the purchaser, directly or indirectly, that a dog is registered or capable of being registered with an animal pedigree registry organization, unless the pet dealer provides the purchaser with the documents necessary for that registration within 120 days following the date of sale of the dog.

(b) In the event that a pet dealer fails to provide the documents necessary for registration within 120 days following the date of sale, in violation of subdivision (a), the purchaser shall, upon written notice to the pet dealer, be entitled to retain the animal and receive a partial refund of 75 percent of the purchase price, plus sales tax, or return the dog along with all documentation previously provided the purchaser for a full refund, including sales tax.

SEC. 17. Section 25995.8 of the Health and Safety Code is amended to read:

25995.8. Except as provided for in subparagraph (B) of paragraph (6) of subdivision (b) of Section 25995.3, no pet dealer shall knowingly sell a dog which is diseased, ill, or has a condition, any one of which requires hospitalization or surgical procedures. In lieu of the civil penalties imposed pursuant to Section 25995.5, any pet dealer who violates this section shall be subject to a civil penalty of up to one thousand dollars ($1,000), or shall be prohibited from selling dogs at retail for up to 30 days, or both. If there is a second offense, the pet dealer shall be subject to a civil penalty of up to two thousand five hundred dollars ($2,500), or a prohibition from selling dogs at retail for up to 90 days, or both. For a third offense, the pet dealer shall be subject to a civil penalty of up to five thousand dollars ($5,000) or a prohibition from selling dogs at retail for up to six months, or both. For a fourth and subsequent offense, the pet dealer shall be subject to a civil penalty of up to ten thousand dollars ($10,000) or a prohibition from selling dogs at retail for up to one year, or both. For purposes of this section, a violation which occurred over five years prior to the most recent violation shall not be considered.

An action for recovery of the civil penalty and for a court order enjoining the pet dealer from engaging in the business of selling dogs at retail for the period set forth in this section, may be prosecuted by the district attorney for the county in which the violation occurred, or the city attorney for the city in which the violation occurred, in the appropriate court.

SEC. 18. Section 25996.10 is added to the Health and Safety Code, to read:

25996.10. (a) No dog may be offered for sale by a pet dealer to a purchaser until the dog has been examined by a veterinarian licensed in this state. Each dog shall be examined within five days of receipt of the dog and once every 15 days thereafter while the dog is in the possession or custody of the pet dealer. The pet dealer shall provide any sick dog with proper veterinary care without delay.

(b) Any dog diagnosed with a contagious or infectious disease, illness, or condition shall be caged separately from healthy dogs until a licensed veterinarian determines that the dog is free from contagion or infection. The area shall meet the following conditions when contagious or infectious dogs are present:

(1) The area shall not be used to house other healthy dogs or new arrivals awaiting the required veterinary examination.

(2) The area shall not be used for storing open food containers or bowls, dishes, or other utensils which come in contact with healthy dogs.

(3) The area shall have an exhaust fan which creates air movement from the isolation area to an area outside the premises of the pet dealer. The removal of exhaust air from the isolation area may be accomplished by the use of existing heating and air-conditioning ducts, provided no exhaust air is permitted to enter or mix with fresh air for use by the general animal population.

(4) Upon removal of all of the contagious or infectious dogs, the area shall be cleaned and disinfected before any healthy animal can be placed in the area.

(c) If the pet dealer's veterinarian deems the dog to be unfit for purchase due to a disease, illness, or congenital condition, any of which is fatal or which causes, or is likely to cause, the dog to unduly suffer, the veterinarian shall humanely euthanize the dog. The veterinarian shall provide the pet dealer with a written statement as to why the dog was euthanized. Otherwise, the pet dealer shall have a veterinarian treat the dog, or may surrender the dog to a humane organization which consents to the receipt thereof.

(d) In the event a dog is returned to a pet dealer due to illness, disease, or a congenital or hereditary condition requiring veterinary care, the pet dealer shall provide the dog with proper veterinary care.

SEC. 19. Section 25996.91 of the Health and Safety Code is amended to read:

25996.91. (a) Every pet dealer shall post conspicuously within close proximity to the cages of dogs offered for sale, a notice

containing the following language in 100-point type:

"Information on the source of these dogs, and veterinary treatments received by these dogs is available for review."

"You are entitled to a copy of a statement of consumer rights."

(b) Every pet dealer shall, upon request for information regarding a dog, make immediately available to prospective purchasers all of the information required to be disclosed to purchasers pursuant to subdivision (b) of Section 25995.3 and pursuant to Section 25995.76.

SEC. 20. This act applies to sales of dogs which occur on or after January 1, 1992.

CHAPTER 1119

An act to add Section 14148.8 to the Welfare and Institutions Code, relating to alternative birth centers.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) In many areas of the state, there is a shortage of hospital sites with obstetric services available for pregnant Medi-Cal beneficiaries.

(2) This shortage is a barrier to providers accepting low-income pregnant women as patients for prenatal care.

(3) It has been reported both in the United States and in other countries that low-risk pregnancies managed by teams of certified nurse midwives, certified nurse practitioners, and physicians and surgeons, and delivered at alternative birth centers are associated with the following:

(A) A high degree of maternal and infant safety.

(B) A reduction in the incidence of preterm and low birth weight newborns.

(C) A reduction in the likelihood of maternal and newborn complications.

(D) A reduction in the incidence of medical interventions, such as conduction anesthesia, forceps, and caesarean sections.

(E) A reduction in the cost of total obstetric care.

(F) An increase in family involvement in the emotional and behavioral components of childbirth.

(G) An increase in the incidence and duration of breast feeding.

(H) An increase in the likelihood of well baby care and

immunizations.

(b) Therefore, it is the intent of the Legislature to provide reimbursement for facility-related delivery costs of alternative birth centers at a rate not to exceed 80 percent of the statewide average payment received by general acute care hospitals with Medi-Cal contracts.

SEC. 2. Section 14148.8 is added to the Welfare and Institutions Code, to read:

14148.8. (a) The State Department of Health Services shall provide Medi-Cal reimbursements to alternative birth centers for facility-related delivery costs at a statewide all-inclusive rate per delivery that shall not exceed 80 percent of the average Medi-Cal reimbursement received by general acute care hospitals with Medi-Cal contracts and shall be based on an average hospital length of stay of 1.7 days. The reimbursement rate shall be updated annually and shall be based on the California Medical Assistance Commission's annually published legislative report of average contract rates for general acute care hospitals with Medi-Cal contracts. However, the reimbursement shall not exceed the alternative birth center's charges to any non-Medi-Cal patient for similar services.

(b) In order to be eligible for reimbursement pursuant to this section, an alternative birth center shall satisfy the following criteria as determined by the state department:

(1) At least 150 patients or 50 percent of the patient caseload served at the center each year, whichever is less, shall be Medi-Cal patients and low-income patients.

(2) The facility shall be currently certified as a comprehensive perinatal services provider. If not currently certified, the facility shall be certified with the first year of operation.

(3) The facilities may utilize certified nurse midwives, certified nurse practitioners, and clinical nurse specialists where appropriate.

(4) The facility shall meet the standards for certification established by the National Association of Childbearing Centers, including those relating to the proximity and involvement of hospitals, obstetricians, and pediatricians.

(5) The facility shall establish and maintain a quality assurance program.

(6) The facility shall maintain newborn followup care for at least one year.

(7) The gathering of data and preparing reports as required in subdivision (c).

(c) (1) Each alternative birth center awarded reimbursement pursuant to this section shall gather data and annually report outcome measures relating to the safety, cost-effectiveness, and patient acceptance of the center to the department to be made available upon request. The data shall also be reported by the center directly to the Senate Office of Research and the Assembly Office of Research to be made available upon request.

(2) The report shall include data on the incidence of maternal and

infant death, preterm newborns, low birth weight newborns, maternal complications, newborn complications, cesarean sections, forcep-assisted deliveries, deliveries involving use of anesthesia, months of prenatal care, family involvement in childbirth, breast-feeding, infant immunizations, well baby care, adjusted cost per case for deliveries performed at the center, and cost per case for women transferred to hospitals for delivery.

(3) The department shall, to the extent information and resources are available, as determined by the department, compare the data provided by the centers with information furnished by other providers of prenatal and delivery services. The department shall use the comparative data to determine for the Medi-Cal program whether alternative birth centers are cost-effective, improve access to prenatal care, reduce the anticipated incidence of maternal and newborn complications, and have a high degree of patient acceptance.

(d) The director shall administer this section and establish standards, procedures, and reimbursement rates, as the director deems necessary in carrying out this section. The establishment of the reimbursement rates is not required to be adopted as regulations pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(e) Nothing in this act shall alter the scope of practice for any health care professional or authorize the delivery of health care services in a setting or in a manner not authorized by the Health and Safety Code or the Business and Professions Code.

CHAPTER 1120

An act to add Section 374.8 to the Penal Code, relating to crime.

[Approved by Governor October 14, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 374.8 is added to the Penal Code, to read:

374.8. (a) In any prosecution under this section, proof of the elements of the offense shall not be dependent upon the requirements of Title 22 of the California Code of Regulations.

(b) Any person who knowingly causes any hazardous substance to be deposited into or upon any road, street, highway, alley, or railroad right-of-way, or upon the land of another, without the permission of the owner, or into the waters of this state is punishable by imprisonment in the county jail for not more than one year or by imprisonment in the state prison for a term of 16 months, 2, or 3 years, or by a fine of not less than fifty dollars ($50) nor more than

ten thousand dollars ($10,000), or by both the fine and imprisonment, unless the deposit occurred as a result of an emergency that the person promptly reported to the appropriate regulatory authority.

(c) For purposes of this section, "hazardous substance" means either of the following:

(1) Any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the environment, including, but not limited to, hazardous waste and any material which the administering agency or a handler as defined in Chapter 6.91 (commencing with Section 25410) of Division 20 of the Health and Safety Code, has a reasonable basis for believing would be injurious to the health and safety of persons or harmful to the environment if released into the environment.

(2) Any substance or chemical product for which one of the following applies.

(A) The manufacturer or producer is required to prepare a MSDS, as defined in Section 6374 of the Labor Code, for the substance or product pursuant to the Hazardous Substances Information Training Act (Chapter 2.5 (commencing with Section 6360) of Part 1 of Division 5 of the Labor Code) or pursuant to any applicable federal law or regulation.

(B) The substance is described as a radioactive material in Chapter 1 of Title 10 of the Code of Federal Regulations maintained and updated by the nuclear Regulatory Commission.

(C) The substance is designated by the Secretary of Transportation in Chapter 27 (commencing with Section 1801) of the appendix to Title 49 of the United States Code and taxed as a radioactive substance or material.

(D) The materials listed in subdivision (b) of Section 6382 of the Labor Code.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1121

An act to add Sections 15814.22 and 15814.23 to the Government Code, relating to energy efficiency.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. It is the policy of the Governor and Legislature of the State of California to ensure that both state government owned and leased buildings utilize the maximum, feasible, cost-effective energy efficiency measures.

SEC. 2. Section 15814.22 is added to the Government Code, to read:

15814.22. The Department of General Services, in consultation with the California Energy Resources Conservation and Development Commission and other state agencies and departments, shall develop a multiyear plan, to be updated biennially, with the goal of exploiting all practicable and cost-effective energy efficiency measures in state facilities. The department shall coordinate plan implementation efforts, and make recommendations to the Governor and the Legislature to achieve energy efficiency goals for state facilities.

SEC. 3. Section 15814.23 is added to the Government Code, to read:

15814.23. The Department of General Services or each state agency having jurisdiction shall ensure that all new state buildings are designed and constructed to meet at least the minimum energy efficiencies specified in standards adopted by the State Energy Resources Conservation and Development Commission pursuant to Section 25402 of the Public Resources Code. In the design and construction of new state buildings, the department or other responsible state agency shall also consider additional state-of-the-art energy efficiency design measures and equipment, beyond those required by the standards, that are cost-effective and feasible.

CHAPTER 1122

An act to amend Section 6103.10 of the Government Code, and to amend Sections 25205.1, 25205.7, 25205.8, and 25205.9 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 6103.10 of the Government Code is amended to read:

6103.10. Section 6103 does not apply to any fee or charges required to be paid to the State Director of Health Services or to the State Board of Equalization pursuant to Chapter 6.5 (commencing with Section 25100) of, and Chapter 6.8 (commencing with Section 25300) of, Division 20 of the Health and Safety Code, except as otherwise provided in paragraph (1) of subdivision (a) of Section 25174.7, subdivision (b) of Section 25205.1, subdivision (n) of Section 25205.7, subdivision (d) of Section 25205.8, and subdivision (e) of Section 25205.9.

SEC. 2. Section 25205.1 of the Health and Safety Code is amended to read:

25205.1. For purposes of this article the following definitions apply:

(a) "Board" means the State Board of Equalization.

(b) "Facility" means any structure, and all contiguous land, used for the treatment, transfer, storage, resource recovery, disposal, or recycling of hazardous waste, which has been issued a permit or a grant of interim status by the department pursuant to Article 9 (commencing with Section 25200) or which is operated in such a manner that the facility is required to obtain a permit or grant of interim status. "Facility" does not include any of the following:

(1) Any facility operated by a local government agency, or by any person operating a hazardous waste collection program under an agreement with a public agency, which is used for any of the following:

(A) Household hazardous waste collection.

(B) The collection of hazardous waste from small quantity commercial sources pursuant to Section 25158.1.

(C) Hazardous wastes which meet the requirements of paragraph (3) of subdivision (a) of Section 25174.7.

(2) That portion of a solid waste management facility permitted pursuant to Chapter 3 (commencing with Section 44001) of Part 4 of Division 30 of the Public Resources Code, which is used for the segregation, handling, and storage of hazardous waste separated from solid waste loads received by the facility, pursuant to a load checking program.

(3) A facility used solely for the treatment, transfer, storage, resource recovery, disposal, or recycling of hazardous waste which results when a government agency, or its contractor, investigates, removes, or remedies a release of hazardous waste caused by another person.

(c) "Large storage facility" means a storage facility which stores 1,000 or more tons of hazardous waste during any one month of the state's current fiscal year commencing on or after July 1, 1988.

(d) "Large treatment facility" means a treatment facility which treats or recycles 1,000 or more tons of hazardous waste during any one month of the state's current fiscal year commencing on or after July 1, 1988.

(e) "Generator" means a person who generates volumes of hazardous waste on or after July 1, 1988, in those amounts specified in subdivision (b) of Section 25205.5 at an individual site commencing on or after July 1, 1988.

(f) "Ministorage facility" means a storage facility which stores 0.5 tons (1,000 pounds) or less of hazardous waste during any one month.

(g) "Minitreatment facility" means a treatment facility which treats or recycles 0.5 tons (1,000 pounds) or less of hazardous waste during any one month.

(h) "Site" means the location of an operation which generates hazardous wastes and which is noncontiguous to any other location of these operations owned by the generator.

(i) "Small storage facility" means a storage facility which stores more than 0.5 tons (1,000 pounds), but less than 1,000 tons, of hazardous waste during any one month.

(j) "Small treatment facility" means a treatment facility which treats or recycles more than 0.5 tons (1,000 pounds), but less than 1,000 tons, of hazardous waste during any month.

SEC. 3. Section 25205.7 of the Health and Safety Code is amended to read:

25205.7. (a) The board shall assess a fee for any application for a new hazardous waste facilities permit, a permit for a hazardous waste facility which would manage extremely hazardous waste, a variance, or a permit modification issued by the department pursuant to this chapter or the regulations adopted pursuant to this chapter. The board shall also assess a fee for any hazardous waste facility which intends to operate pursuant to a permit by regulation governed by this chapter or the regulations adopted pursuant to this chapter, which shall be due and payable upon the facility's notification to the department of its intent to operate in this manner. Except as provided in subdivision (i), the board shall not assess a fee pursuant to this section for an application for a hazardous waste facilities permit for a hazardous waste facility which has been previously operating pursuant to a grant of interim status pursuant to Section 25200.5. The fee shall be nonrefundable, even if the application is withdrawn or the permit, variance, or certification is denied. The department shall provide the board with any information which is

necessary to assess fees pursuant to this section. The fee shall be collected in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code, and deposited into the Hazardous Waste Control Account. A hazardous waste facility which is assessed a fee pursuant to more than one of subdivisions (c) to (i), inclusive, shall pay only the higher fee.

(b) The amounts stated in this section shall be base rates for the 1989–90 fiscal year. Thereafter the fees shall be adjusted annually to reflect increases or decreases in the cost of living, as measured by the Consumer Price Index for the United States, as reported by the Department of Labor or a successor agency of the United States government. The fee shall be assessed upon application or notification to the department.

(c) A person submitting a hazardous waste facilities permit application for a land disposal facility shall pay eighty-three thousand dollars ($83,000) for a small facility, one hundred seventy-seven thousand dollars ($177,000) for a medium facility, and three hundred four thousand dollars ($304,000) for a large facility.

(d) A person submitting a hazardous waste facilities permit application for any incinerator for which the permit was required on or before July 1, 1989, shall pay fifty thousand dollars ($50,000) for a small facility, one hundred six thousand dollars ($106,000) for a medium facility, and one hundred eighty-two thousand dollars ($182,000) for a large facility. A person submitting a hazardous waste facilities permit application for any other incinerator shall pay a fee in accordance with subdivision (e). If the application was submitted before July 1, 1989, the fees specified in this subdivision shall not apply, and the fees specified in subdivision (e) shall instead apply.

(e) A person submitting a hazardous waste facilities permit application for a storage facility, a treatment facility, or a storage and treatment facility shall pay seventeen thousand dollars ($17,000) for a small facility, thirty-one thousand dollars ($31,000) for a medium facility, and sixty thousand dollars ($60,000) for a large facility.

(f) A person submitting a hazardous waste facilities permit application for a transportable treatment unit shall pay thirteen thousand dollars ($13,000) for a small unit, thirty thousand dollars ($30,000) for a medium unit, and sixty thousand dollars ($60,000) for a large unit.

(g) A person submitting a request for a variance shall pay three thousand dollars ($3,000) for a variance from any hazardous waste storage requirements imposed by this chapter, three hundred dollars ($300) for a variance issued pursuant to Section 25179.8, three hundred dollars ($300) for a variance to allow the use of a test method or analytical method which is an alternative to the methods prescribed by regulation for use in classifying a waste, eight hundred dollars ($800) for a variance from the requirements for hazardous waste haulers imposed by this chapter, and eight thousand dollars ($8,000) for all other variances. If the variance application requests a variance from more than one specific statute or regulation, a

separate fee may be assessed for each statute or regulation from which the variance is requested.

(h) A person required to notify the department of the person's intent to operate a facility pursuant to a permit by regulation shall pay one thousand dollars ($1,000) for each initial notification and not more than one thousand dollars ($1,000) for each notification thereafter, as specified in the regulations adopted by the department.

(i) A person applying for approval of an application to manage extremely hazardous waste shall pay two hundred dollars ($200), in addition to any other fee imposed by this section.

(j) (1) A person requesting a permit modification shall pay a fee equal to 70 percent of the fee for a new hazardous waste facilities permit for that facility, or 50 percent of the fee for a new permit for a land disposal facility or an incinerator, if the department's regulations require public notice and public comment before that modification may go into effect.

(2) Except as provided in paragraph (3), a person requesting any other permit modification not subject to paragraph (1) shall pay a fee of one thousand five hundred dollars ($1,500).

(3) A facility which applies for a new hazardous waste facilities permit, and which has been previously operating pursuant to a grant of interim status, or a facility which applies to renew a hazardous waste facilities permit, shall pay the fee specified in paragraph (1) if the applicant requests any modification for which, if the facility was permitted, the department's regulations would require public notice and public comment before the modification could go into effect.

(k) For purposes of this section, and notwithstanding Section 25205.1, any facility or unit is "small" if it manages 0.5 tons (1,000 pounds) or less of hazardous waste during any one month of the state's current fiscal year, "medium" if it manages more than 0.5 tons (1,000 pounds), but less than 1,000 tons, of hazardous waste during any one month of the state's current fiscal year, and "large" if it manages 1,000 or more tons of hazardous waste during any one month of the state's current fiscal year.

(*l*) The fees assessed pursuant to this section do not apply to any permit or variance to operate a research, development, and demonstration facility, if the duration of the permit or variance is not longer than one year, unless the permit or variance is renewed pursuant to the regulations adopted by the department. For purposes of this section, a "research, development, and demonstration facility" is a facility which proposes to utilize an innovative and experimental hazardous waste treatment technology or process for which regulations prescribing permit standards have not been adopted.

(m) The fees assessed pursuant to this section do not apply to any variance issued to a local government agency to transport wastes for purposes of operating a household hazardous waste facility.

(n) The fees assessed pursuant to this section do not apply to any

permit or variance issued to a government agency for the treatment, transfer, storage, resource recovery, disposal, or recycling of hazardous waste which result when a government agency, or its contractor, investigates, removes, or remedies a release of hazardous waste caused by another person.

(o) In each instance when a government agency uses its extremely hazardous waste permit for emergency response activities, the government agency shall send a copy of the permit to the department.

SEC. 4. Section 25205.8 of the Health and Safety Code is amended to read:

25205.8. (a) The board shall assess a fee of seven thousand five hundred dollars ($7,500) upon a person requesting the department to classify a waste as hazardous or nonhazardous. The board shall assess a fee of one thousand dollars ($1,000) for each additional classification request for the same stream of waste requested by the same person. The department shall notify the board at the time the request for classification is made. The fee shall be assessed by the board for request pending at the time the act adding this section goes into effect. The department shall provide the board with any information which is necessary to assess fees pursuant to this section. The fee shall be collected in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code, and deposited into the Hazardous Waste Control Account.

(b) The amount stated in this section shall be a base rate for the 1989–90 fiscal year. Thereafter, the department shall adjust the base rate annually to reflect increases or decreases in the cost of living, as measured by the Consumer Price Index for the United States, as reported by the Department of Labor or a successor agency of the United States government.

(c) The fees assessed pursuant to this section do not apply to any waste classification request made for use by a research, development, and demonstration facility, as defined in subdivision (k) of Section 25205.7.

(d) The fees assessed pursuant to this section do not apply to any government agency for any hazardous waste which results when a government agency, or its contractor, investigates, removes, or remedies a release of hazardous waste caused by another person.

SEC. 5. Section 25205.9 of the Health and Safety Code is amended to read:

25205.9. (a) In addition to the fees imposed by Section 25205.5, every generator of hazardous waste, including, but not limited to, generators who are exempt from paying the fee imposed by Section 25205.5 because they have paid facility fees, shall pay to the board, in the amounts specified in subdivision (b), a surcharge for each generator site for each calendar year, or portion thereof. The rates specified in subdivision (b) are for the 1990–91 fiscal year and the board shall adjust the surcharge annually to reflect increases or decreases in the cost of living measured by the Consumer Price

Index issued by the United States Department of Labor or by a successor agency of the federal government. For purposes of this chapter, the surcharge imposed by this section shall be known as the waste reporting surcharge.

(b) The amount of the surcharge shall be one of the following:

(1) Each generator who generates an amount equal to, or more than, five tons, but less than 25 tons, of hazardous waste during the prior calendar year shall pay six dollars ($6).

(2) Each generator who generates an amount equal to, or more than, 25 tons, but less than 50 tons, of hazardous waste during the prior calendar year shall pay forty-eight dollars ($48).

(3) Each generator who generates an amount equal to, or more than, 50 tons, but less than 250 tons, of hazardous waste during the prior calendar year shall pay one hundred twenty dollars ($120).

(4) Each generator who generates an amount equal to, or more than, 250 tons, but less than 500 tons, of hazardous waste during the prior calendar year shall pay six hundred dollars ($600).

(5) Each generator who generates an amount equal to, or more than, 500 tons, but less than 1,000 tons, of hazardous waste during the prior calendar year shall pay one thousand two hundred dollars ($1,200).

(6) Each generator who generates an amount equal to, or more than, 1,000 tons, but less than, 2,000 tons, of hazardous waste during the prior calendar year shall pay one thousand eight hundred dollars ($1,800).

(7) Each generator who generates an amount equal to, or more than, 2,000 tons of hazardous waste during the prior calendar year shall pay two thousand four hundred dollars ($2,400).

(c) The fee imposed pursuant to this section shall be paid in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code.

(d) The board shall deposit the surcharges collected pursuant to subdivisions (a) and (c) in the Hazardous Waste Control Account, created in Section 25174. The surcharges deposited in the account may be expended by the department, upon appropriation by the Legislature, for the purposes specified in Article 11.9 (commencing with Section 25244.12).

(e) The fees assessed pursuant to this section do not apply to any local government agency for any hazardous waste which results when a government agency, or its contractor, investigates, removes, or remedies a release of hazardous waste caused by another person.

SEC. 6. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1123

An act to amend Sections 25187.2, 25363, and 25400 of, to amend, repeal, and add Sections 25205.1, 25205.2, 25205.4, and 25205.5 of, to amend and repeal Section 25205.3 of, and to add Section 25365.6 to, the Health and Safety Code, and to amend Sections 43012, 43053, 43054, and 43152.10 of, to amend and renumber Section 43152.9 of, to amend, repeal, and add Sections 43152.6, 43152.8, 43155, and 43156 of, and to add Sections 43013 and 43152.12 to, the Revenue and Taxation Code, relating to hazardous substances, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 25187.2 of the Health and Safety Code is amended to read:

25187.2. If a removal or remedial action order issued pursuant to Section 25187 to a potentially responsible party requires a person to take corrective action with respect to hazardous waste, that person shall pay the applicable fees specified in Section 25343 for oversight of the removal or remedial action. However, notwithstanding subdivision (a) of Section 25343, any fees collected pursuant to this section shall be deposited in the Hazardous Waste Control Account, unless the person is required to take the same removal or remedial action pursuant to Section 25355.5 or an order issued pursuant to subdivision (a) of Section 25358.3. This section does not prohibit the department from assessing any other penalty or recovering any costs for oversight of a removal or remedial action, pursuant to any other provision, except that any fees paid pursuant to this section shall be credited for those costs. Nothing in this section limits the due process requirements of Section 25187.

SEC. 2. Section 25205.1 of the Health and Safety Code is amended to read:

25205.1. For purposes of this article the following definitions apply:

(a) "Board" means the State Board of Equalization.

(b) "Facility" means any structure, and all contiguous land, used for the treatment, transfer, storage, resource recovery, disposal, or recycling of hazardous waste, which has been issued a permit or a

grant of interim status by the department pursuant to Article 9 (commencing with Section 25200) or which is operated in such a manner that the facility is required to obtain a permit or grant of interim status. "Facility" does not include either of the following:

(1) Any facility operated by a local government agency, or by any person operating a hazardous waste collection program under an agreement with a public agency, which is used for any of the following:

(A) Household hazardous waste collection.

(B) The collection of hazardous waste from small quantity commercial sources pursuant to Section 25158.1.

(C) Hazardous wastes which meet the requirements of paragraph (3) of subdivision (a) of Section 25174.7.

(2) That portion of a solid waste management facility permitted pursuant to Chapter 3 (commencing with Section 44001) of Part 4 of Division 30 of the Public Resources Code, which is used for the segregation, handling, and storage of hazardous waste separated from solid waste loads received by the facility, pursuant to a load checking program.

(c) "Large storage facility" means a storage facility which stores 1,000 or more tons of hazardous waste during any one month of the state's current fiscal year commencing on or after July 1, 1988.

(d) "Large treatment facility" means a treatment facility which treats or recycles 1,000 or more tons of hazardous waste during any one month of the state's current fiscal year commencing on or after July 1, 1988.

(e) "Generator" means a person who generates volumes of hazardous waste on or after July 1, 1988, in those amounts specified in subdivision (b) of Section 25205.5 at an individual site commencing on or after July 1, 1988.

(f) "Ministorage facility" means a storage facility which stores 0.5 tons (1,000 pounds) or less of hazardous waste during any one month.

(g) "Minitreatment facility" means a treatment facility which treats or recycles 0.5 tons (1,000 pounds) or less of hazardous waste during any one month.

(h) "Site" means the location of an operation which generates hazardous wastes and which is noncontiguous to any other location of these operations owned by the generator.

(i) "Small storage facility" means a storage facility which stores more than 0.5 tons (1,000 pounds), but less than 1,000 tons, of hazardous waste during any one month.

(j) "Small treatment facility" means a treatment facility which treats or recycles more than 0.5 tons (1,000 pounds), but less than 1,000 tons, of hazardous waste during any month.

(k) This section shall become inoperative on July 1, 1991, and, as of January 1, 1992, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1992, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. Section 25205.1 is added to the Health and Safety Code,

to read:

25205.1. For purposes of this article the following definitions apply:

(a) "Board" means the State Board of Equalization.

(b) "Facility" means any structure, and all contiguous land, used for the treatment, transfer, storage, resource recovery, disposal, or recycling of hazardous waste, which has been issued a permit or a grant of interim status by the department pursuant to Article 9 (commencing with Section 25200) or which is operated in such a manner that the facility is required to obtain a permit or grant of interim status. "Facility" does not include either of the following:

(1) Any facility operated by a local government agency, or by any person operating a hazardous waste collection program under an agreement with a public agency, which is used for any of the following:

(A) Household hazardous waste collection.

(B) The collection of hazardous waste from small quantity commercial sources pursuant to Section 25158.1.

(C) Hazardous wastes which meet the requirements of paragraph (3) of subdivision (a) of Section 25174.7.

(2) That portion of a solid waste management facility permitted pursuant to Chapter 3 (commencing with Section 44001) of Part 4 of Division 30 of the Public Resources Code, which is used for the segregation, handling, and storage of hazardous waste separated from solid waste loads received by the facility, pursuant to a load checking program.

(c) "Large storage facility" means a storage facility which stores 1,000 or more tons of hazardous waste during any one month of the current reporting period commencing on or after July 1, 1991.

(d) "Large treatment facility" means a treatment facility which treats or recycles 1,000 or more tons of hazardous waste during any one month of the current reporting period commencing on or after July 1, 1991.

(e) "Generator" means a person who generates volumes of hazardous waste on or after July 1, 1988, in those amounts specified in subdivision (b) of Section 25205.5 at an individual site commencing on or after July 1, 1988.

(f) "Ministorage facility" means a storage facility which stores 0.5 tons (1,000 pounds) or less of hazardous waste during any one month of the current reporting period commencing on or after July 1, 1991.

(g) "Minitreatment facility" means a treatment facility which treats or recycles 0.5 tons (1,000 pounds) or less of hazardous waste during any one month of the current reporting period commencing on or after July 1, 1991.

(h) "Site" means the location of an operation which generates hazardous wastes and which is noncontiguous to any other location of these operations owned by the generator.

(i) "Small storage facility" means a storage facility which stores more than 0.5 tons (1,000 pounds), but less than 1,000 tons, of

hazardous waste during any one month of the current reporting period commencing on or after July 1, 1991.

(j) "Small treatment facility" means a treatment facility which treats or recycles more than 0.5 tons (1,000 pounds), but less than 1,000 tons, of hazardous waste during any month of the current reporting period commencing on or after July 1, 1991.

(k) This section shall become operative July 1, 1991.

SEC. 4. Section 25205.2 of the Health and Safety Code is amended to read:

25205.2. (a) Except as provided in subdivision (c), in addition to the fees specified in Section 25174.1, each operator of a facility shall pay a facility fee for each state fiscal year, or any portion thereof, to the board based on the size and type of the facility, as specified in Section 25205.4. The department shall notify the board of all known facility operators by facility type and size at the time it establishes the facility fees pursuant to Section 25205.3. The department shall also notify the board of any operator issued a permit or grant of interim status within 30 days after a permit or grant of interim status is issued to the operator. The fee specified in this section does not apply to facilities operating pursuant to a permit by regulation.

(b) The board shall deposit all fees collected pursuant to subdivision (a) in the Hazardous Waste Control Account in the General Fund. The fees so deposited may be expended by the department, upon appropriation by the Legislature, for the purposes specified in subdivision (b) of Section 25174.

(c) Notwithstanding subdivision (a), a person who is issued a variance by the department from the requirement of obtaining a hazardous waste facilities permit or grant of interim status, or a person who is in a closure period approved by the department pursuant to Article 9 (commencing with Section 25200) and Article 12 (commencing with Section 25245), is not subject to the fee, for any fiscal year following the fiscal year in which the variance or closure was granted or approved by the department or in the fiscal year following any fiscal year in which the facility has completed all activities necessary for the department to approve the closure, including, but not limited to, submittal of a certification that these activities are completed to the department.

(d) This section shall become inoperative on July 1, 1991, and, as of January 1, 1992, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1992, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 5. Section 25205.2 is added to the Health and Safety Code, to read:

25205.2. (a) Except as provided in subdivision (c), in addition to the fees specified in Section 25174.1, each operator of a facility shall pay a facility fee for each reporting period, or any portion thereof, to the board based on the size and type of the facility, as specified in Section 25205.4. On or before January 31 of each calendar year, the department annually shall notify the board of all known facility

operators by facility type and size. The department shall also notify the board of any operator issued a permit or grant of interim status within 30 days after a permit or grant of interim status is issued to the operator. The fee specified in this section does not apply to facilities operating pursuant to a permit by regulation.

(b) The board shall deposit all fees collected pursuant to subdivision (a) in the Hazardous Waste Control Account in the General Fund. The fees so deposited may be expended by the department, upon appropriation by the Legislature, for the purposes specified in subdivision (b) of Section 25174.

(c) Notwithstanding subdivision (a), a person who is issued a variance by the department from the requirement of obtaining a hazardous waste facilities permit or grant of interim status, or a person who is in a closure period approved by the department pursuant to Article 9 (commencing with Section 25200) and Article 12 (commencing with Section 25245), is not subject to the fee, for any reporting period following the reporting period in which the variance or closure was granted or approved by the department or in the reporting period following any reporting period in which the facility has completed all activities necessary for the department to approve the closure, including, but not limited to, submittal of a certification that these activities are completed to the department.

(d) This section shall become operative July 1, 1991.

SEC. 6. Section 25205.3 of the Health and Safety Code is amended to read:

25205.3. (a) The board shall establish the facility fees specified in Section 25205.2 in accordance with Section 25205.4 within 30 days after the effective date of the enactment of the annual Budget Act. Within 30 days of the establishment of the fees, the board shall send a notice of the fees to every person subject to the fee.

(b) This section shall become inoperative on July 1, 1991, and, as of January 1, 1992, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1992, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 7. Section 25205.4 of the Health and Safety Code is amended to read:

25205.4. (a) The base rate for the facility fee imposed by Section 25205.2 is twenty thousand dollars ($20,000). This base rate is the base rate for the 1989–90 fiscal year and the board shall adjust the base rate annually to reflect increases or decreases in the cost of living measured by the Consumer Price Index issued by the United States Department of Labor or by a successor agency of the federal government.

(b) The determination of the facility fee pursuant to this section, including the redetermination of the base rate, is exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) In computing the facility fees, all of the following shall apply:

(1) The fee provided pursuant to Section 25205.2 to be paid by a

ministorage facility shall equal 25 percent of the base facility rate.

(2) The fee provided pursuant to Section 25205.2 to be paid by a small storage facility shall equal the base facility rate.

(3) The fee charged a large storage facility shall equal twice the base facility rate.

(4) The fee charged a minitreatment facility shall equal 50 percent of the base facility rate.

(5) The fee charged a small treatment facility shall equal twice the base facility rate.

(6) The fee charged a large treatment facility shall equal three times the base facility rate.

(7) The fee charged a disposal facility until closure is approved shall equal 10 times the base facility rate.

(8) The fee charged a facility with a postclosure permit shall be seven thousand five hundred dollars ($7,500) annually for a small facility, fifteen thousand dollars ($15,000) annually for a medium facility, and twenty-two thousand five hundred dollars ($22,500) for a large facility during the first five years of the postclosure period. The fee charged for a facility with a postclosure permit during the remaining years of the postclosure care period shall be four thousand dollars ($4,000) annually for a small facility, eight thousand dollars ($8,000) annually for a medium facility, and thirteen thousand five hundred dollars ($13,500) annually for a large facility.

(d) If a facility falls into more than one category listed in subdivision (c), multiple operations under a single hazardous waste facility permit or grant of interim status fall into more than one category listed in subdivision (c), the facility operator shall pay only the rate for the facility category which is the highest rate.

(e) The fee imposed pursuant to this section shall be paid in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code.

(f) This section shall become inoperative on July 1, 1991, and, as of January 1, 1992, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1992, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 8. Section 25205.4 is added to the Health and Safety Code, to read:

25205.4. (a) The base rate for the facility fee imposed by Section 25205.2 for the 1991–92 fiscal year is the base rate for the 1991 reporting period, as established pursuant to this section as it read on June 30, 1991. Commencing with the 1992 reporting period, and for each reporting period thereafter, the board shall adjust the base rate annually to reflect increases or decreases in the cost of living measured by the Consumer Price Index issued by the United States Department of Labor or by a successor agency of the federal government.

(b) The determination of the facility fee pursuant to this section, including the redetermination of the base rate, is exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division

3 of Title 2 of the Government Code.

(c) In computing the facility fees, all of the following shall apply:

(1) The fee provided pursuant to Section 25205.2 to be paid by a ministorage facility shall equal 25 percent of the base facility rate.

(2) The fee provided pursuant to Section 25205.2 to be paid by a small storage facility shall equal the base facility rate.

(3) The fee to be paid by a large storage facility shall equal twice the base facility rate.

(4) The fee to be paid by a minitreatment facility shall equal 50 percent of the base facility rate.

(5) The fee to be paid by a small treatment facility shall equal twice the base facility rate.

(6) The fee to be paid by a large treatment facility shall equal three times the base facility rate.

(7) The fee to be paid by a disposal facility until closure is approved shall equal 10 times the base facility rate.

(8) The fee to be paid by a facility with a postclosure permit shall be seven thousand five hundred dollars ($7,500) annually for a small facility, fifteen thousand dollars ($15,000) annually for a medium facility, and twenty-two thousand five hundred dollars ($22,500) for a large facility during the first five years of the postclosure period. The fee to be paid by a facility with a postclosure permit during the remaining years of the postclosure care period shall be four thousand dollars ($4,000) annually for a small facility, eight thousand dollars ($8,000) annually for a medium facility, and thirteen thousand five hundred dollars ($13,500) annually for a large facility.

(d) If a facility falls into more than one category listed in subdivision (c), multiple operations under a single hazardous waste facility permit or grant of interim status fall into more than one category listed in subdivision (c), the facility operator shall pay only the rate for the facility category which is the highest rate.

(e) The fee imposed pursuant to this section shall be paid in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code.

(f) This section shall become operative July 1, 1991.

SEC. 9. Section 25205.5 of the Health and Safety Code is amended to read:

25205.5. (a) In addition to the fee imposed pursuant to Section 25174.1, every generator of hazardous waste, in the amounts specified in subdivision (b), shall pay the board a generator fee for each generator site for each calendar year, or portion thereof, unless the generator has paid a facility fee, as specified in Section 25205.2, for each specific site, for the fiscal year which commenced during the calendar year for which the generator fee is due.

(b) Within 30 days of the enactment of the annual Budget Act, the board shall establish the generator fee specified in subdivision (a), as adjusted pursuant to subdivision (c), to be paid by generators subject to this section.

The base fee rate is two thousand four hundred dollars ($2,400).

(1) Each generator who generates an amount equal to, or more than, 5 tons, but less than 25 tons, of hazardous waste during the prior calendar year shall pay 5 percent of the base rate.

(2) Each generator who generates an amount equal to or more than 25 tons, but less than 50 tons, of hazardous waste during the prior calendar year shall pay 40 percent of the base rate.

(3) Each generator who generates an amount equal to, or more than, 50 tons, but less than 250 tons, of hazardous waste during the prior calendar year shall pay the base rate.

(4) Each generator who generates an amount equal to, or more than, 250 tons, but less than 500 tons, of hazardous waste during the prior calendar year shall pay five times the base rate.

(5) Each generator who generates an amount equal to, or more than, 500 tons, but less than 1,000 tons, of hazardous waste during the prior calendar year shall pay 10 times the base rate.

(6) Each generator who generates an amount equal to, or more than, 1,000 tons, but less than 2,000 tons, of hazardous waste during the prior calendar year shall pay 15 times the base rate.

(7) Each generator who generates an amount equal to, or more than, 2,000 tons of hazardous waste during the prior calendar year shall pay 20 times the base rate.

(c) The base rate established pursuant to subdivision (b) is the base rate for the 1989–90 fiscal year and the board shall adjust the base rate annually to reflect increases or decreases in the cost of living, as measured by the Consumer Price Index issued by the United States Department of Labor or by a successor agency of the federal government.

(d) The establishment of the annual operating fee pursuant to this section is exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(e) Any hazardous materials which are recycled, and used onsite, and are not transferred offsite, are not hazardous wastes for purposes of this section.

(f) The fee imposed pursuant to this section shall be paid in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code.

(g) This section shall become inoperative on July 1, 1991, and, as of January 1, 1992, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1992, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 10. Section 25205.5 is added to the Health and Safety Code, to read:

25205.5. (a) In addition to the fee imposed pursuant to Section 25174.1, every generator of hazardous waste, in the amounts specified in subdivision (b), shall pay the board a generator fee for each generator site for each calendar year, or portion thereof, unless the generator has paid a facility fee, as specified in Section 25205.2, for each specific site, for the calendar year for which the generator fee is due.

(b) Within 30 days of the enactment of the annual Budget Act, the board shall establish the generator fee specified in subdivision (a), as adjusted pursuant to subdivision (c), to be paid by generators subject to this section.

The base fee rate is two thousand four hundred dollars ($2,400).

(1) Each generator who generates an amount equal to, or more than, five tons, but less than 25 tons, of hazardous waste during the prior calendar year shall pay 5 percent of the base rate.

(2) Each generator who generates an amount equal to or more than 25 tons, but less than 50 tons, of hazardous waste during the prior calendar year shall pay 40 percent of the base rate.

(3) Each generator who generates an amount equal to, or more than, 50 tons, but less than 250 tons, of hazardous waste during the prior calendar year shall pay the base rate.

(4) Each generator who generates an amount equal to, or more than, 250 tons, but less than 500 tons, of hazardous waste during the prior calendar year shall pay five times the base rate.

(5) Each generator who generates an amount equal to, or more than, 500 tons, but less than 1,000 tons, of hazardous waste during the prior calendar year shall pay 10 times the base rate.

(6) Each generator who generates an amount equal to, or more than, 1,000 tons, but less than 2,000 tons, of hazardous waste during the prior calendar year shall pay 15 times the base rate.

(7) Each generator who generates an amount equal to, or more than, 2,000 tons of hazardous waste during the prior calendar year shall pay 20 times the base rate.

(c) The base rate established pursuant to subdivision (b) is the base rate for the 1989-90 fiscal year and the board shall adjust the base rate annually to reflect increases or decreases in the cost of living, as measured by the Consumer Price Index issued by the United States Department of Labor or by a successor agency of the federal government.

(d) The establishment of the annual operating fee pursuant to this section is exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(e) Any hazardous materials which are recycled, and used onsite, and are not transferred offsite, are not hazardous wastes for purposes of this section.

(f) The fee imposed pursuant to this section shall be paid in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code.

(g) This section shall become operative July 1, 1991.

SEC. 11. Section 25363 of the Health and Safety Code is amended to read:

25363. (a) Except as provided in subdivision (f), any party found liable for any costs or expenditures recoverable under this chapter who establishes by a preponderance of the evidence that only a portion of those costs or expenditures are attributable to that party's actions, shall be required to pay only for that portion.

(b) Except as provided in subdivision (f), if the trier of fact finds the evidence insufficient to establish each party's portion of costs or expenditures under subdivision (a), the court shall apportion those costs or expenditures, to the extent practicable, according to equitable principles, among the defendants.

(c) The state account shall pay any portion of the judgment in excess of the aggregate amount of costs or expenditures apportioned under subdivisions (a) and (b).

(d) The standard of liability for any costs or expenses recoverable pursuant to this chapter is strict liability.

(e) Any person who has incurred removal or remedial action costs in accordance with this chapter or the federal act may seek to recover these costs from any person who is liable pursuant to this chapter, except that no claim may be asserted against a person whose liability has been determined and which has been or is being, fully discharged pursuant to Section 25356.6, or against a person who is actively participating in a pending apportionment proceeding pursuant to Section 25356.6. An action to enforce a claim may be brought as a cross-complaint by any defendant in an action brought pursuant to Section 25360, or in a separate action after the person seeking cost recovery has paid removal or remedial action costs in accordance with this chapter or the federal act. In resolving claims for cost recovery, the court may allocate costs among liable parties using those equitable factors which are appropriate.

(f) Notwithstanding this chapter, any response action contractor, as defined in subdivision (h) of Section 25364.6, who is found liable for any costs or expenditures recoverable under this chapter and who establishes by a preponderance of the evidence that only a portion of those costs or expenditures are attributable to the response action contractor's actions, shall be required to pay only that portion of the costs or expenditures attributable to the response action contractor's actions.

SEC. 12. Section 25365.6 is added to the Health and Safety Code, to read:

25365.6. (a) Any costs or damages incurred and payable from the state account or the Hazardous Substance Cleanup Fund by the department pursuant to this chapter constitutes a claim and lien upon the real property owned by the responsible party which is subject to, or affected by, the removal and remedial action. This lien shall attach regardless of whether the responsible party is insolvent.

(b) The department shall not be considered a responsible party for a hazardous substance release site because a claim and lien is imposed pursuant to this section.

(c) The lien provided by this section shall continue until the liability for these costs or damages, or a judgment against the responsible party, is satisfied. However, if it is determined by the court that the judgment against the responsible party will not be satisfied, the department may exercise its rights under the lien.

(d) The lien imposed by this section shall have the force and effect

of, and the priority of, a judgment lien upon its recordation in the county in which the property subject to the lien is located. The lien shall contain the legal description of the real property, the assessor's parcel number, and the name of the owner of record, as shown on the latest equalized assessment roll. The lien shall also contain a legal description of the property which is the site of the hazardous substance release, the assessor's parcel number for that property, and the name of the owner of record, as shown on the latest equalized assessment roll, of that property.

(e) All funds recovered pursuant to this section shall be deposited in the state account, except that, if the costs incurred were paid from the Hazardous Substance Cleanup Fund, the recovered funds shall be deposited in the Hazardous Substance Clearing Account.

SEC. 13. Section 25400 of the Health and Safety Code is amended to read:

25400. (a) The Legislature finds and declares that a threat to the public health and safety exists wherever there is a discharge, spill, or presence of hazardous substances on public or private property; and that public entities, county public health directors, public safety employees, members of radiation emergency screening teams formed pursuant to Section 25574, persons authorized by a public entity, or registered sanitarian employees should be encouraged to abate those hazards, and to that end a qualified immunity from liability should be provided for public entities, county public health directors, public safety employees, members of radiation emergency screening teams formed pursuant to Section 25574, persons authorized by a public entity, or registered sanitarian employees.

(b) Except as provided in Article 1 (commencing with Section 17000) of Chapter 1 of Division 9 of the Vehicle Code, a public entity, county public health director, a public safety employee, a member of a radiation emergency screening team formed pursuant to Section 25574, a person authorized by a public entity, or a registered sanitarian employee shall not be liable for any injury or property damage caused by an act or omission taken by a county public health director, a public safety employee, a member of a radiation emergency screening team formed pursuant to Section 25574, a person authorized by a public entity, or a registered sanitarian employee acting within the scope of employment to abate or attempt to abate hazards reasonably believed to be an imminent peril to public health and safety caused by the discharge, spill, or presence of a hazardous substance, unless the act taken or omission was performed in bad faith or in a grossly negligent manner.

(c) For the purposes of this section, it shall be presumed that the act or omission was performed in good faith and without gross negligence. This presumption shall be one affecting the burden of proof.

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

(1) "Hazardous substance" means a substance that presents a

threat to the public because of its toxicity, radioactivity, flammability, or other characteristic dangerous to the public health or the environment.

(2) "Imminent peril" includes a peril which, if not mitigated, threatens the public health or welfare, or the environment.

(3) "Person authorized by a public agency" includes a person from whom services are contracted by a public agency.

(4) "Public agency" includes, but is not limited to, the federal government or any department or agency thereof to the extent permitted by law.

(5) "Public safety employee" means any person who is a public entity employee and whose principal duties include law enforcement, fire protection, fire prevention, or the enforcement of regulations relating to facilities or sites where hazardous substances are stored or handled.

(6) "Registered sanitarian employee" means a person who is registered pursuant to Section 520 and who is a paid employee of a state or local public entity.

(e) It is not the intent of this section to impair any cause of action against the person, firm, or entity creating the spill, discharge, or presence of the hazardous material giving rise to the response of the public entity, county public health director, public safety employee, member of a radiation screening team formed pursuant to Section 25574, person authorized by a public entity, or registered sanitarian employee.

(f) The immunity for county public health directors or registered sanitarian employees provided by this section shall apply only where the person, at the request of a public entity or public safety employee in charge of scene management, provides emergency assistance or advice at the scene of the peril in mitigating or attempting to mitigate the effects of an actual or threatened discharge, spill, or presence of a hazardous substance on private or public property. The request issued by the scene manager shall be confirmed by that person in a written report of the incident.

SEC. 14. Section 43012 of the Revenue and Taxation Code is amended to read:

43012. For purposes of this part, "taxpayer" means any person liable for the payment of a fee or a tax specified in subdivision (a) of Section 25174 of the Health and Safety Code or subdivision (e) of Section 25221 of the Health and Safety Code, or imposed by Section 25174.1 of the Health and Safety Code.

SEC. 15. Section 43013 is added to the Revenue and Taxation Code, to read:

43013. For purposes of this part, "feepayer" has the same meaning as taxpayer, as defined in Section 43012.

SEC. 16. Section 43053 of the Revenue and Taxation Code is amended to read:

43053. The fees imposed pursuant to Sections 25205.2, 25205.5, 25205.6, 25205.7, 25205.8, and 25221 of the Health and Safety Code

shall be administered and collected by the board in accordance with this part.

SEC. 17. Section 43054 of the Revenue and Taxation Code is amended to read:

43054. The fees imposed pursuant to Section 25343 of the Health and Safety Code shall be administered and collected by the board in accordance with this part.

SEC. 18. Section 43152.6 of the Revenue and Taxation Code is amended to read:

43152.6. (a) The fee imposed pursuant to Section 25205.2 of the Health and Safety Code which is collected and administered under Section 43053 of this code is due and payable to the board in two equal installments, on or before November 1 and April 1 of each fiscal year.

(b) This section shall become inoperative on July 1, 1991, and, as of January 1, 1992, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1992, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 19. Section 43152.6 is added to the Revenue and Taxation Code, to read:

43152.6. (a) The fee imposed pursuant to Section 25205.2 of the Health and Safety Code which is collected and administered under Section 43053 of this code is due and payable to the board annually on or before the last day of the month following the end of the calendar year.

(b) Every operator of a facility subject to the fee imposed pursuant to Section 25205.2 of the Health and Safety Code shall file an annual return on the forms provided by the board and pay the proper amount of fee due.

(c) For purposes of subdivision (a), except as provided in subdivision (d), the operator of a facility shall pay the applicable fee based on the type and size of the facility, as specified in Sections 25205.1 and 25205.4 of the Health and Safety Code. The board shall credit the prepayment of the fee made pursuant to Section 43152.12 against the amount due with the annual return.

(d) Notwithstanding subdivision (c), the fee for the 1991 reporting period, which is from July 1, 1991, to December 31, 1991, inclusive, is 50 percent of the fee specified in Section 25205.4 of the Health and Safety Code, based on the type and size of the facility, as specified in Section 25205.4 of the Health and Safety Code.

(e) This section shall become operative July 1, 1991.

SEC. 20. Section 43152.8 of the Revenue and Taxation Code is amended to read:

43152.8. (a) The department shall notify the board of the occurrence of any of the following:

(1) The issuance of a hazardous waste facilities permit to any facility operator, who has not previously been granted interim status, within 30 days after the facility permit is issued.

(2) When any facility changes size category pursuant to Section

25205.4 of the Health and Safety Code.

(b) The board shall submit a bill to any identified or reclassified facilities for which the board is notified pursuant to this section for the fees, or difference in fees, which shall be due and payable within 30 days.

(c) This section shall become inoperative on July 1, 1991, and, as of January 1, 1992, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1992, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 21. Section 43152.8 is added to the Revenue and Taxation Code, to read:

43152.8. (a) The department shall notify the board of the occurrence of any of the following:

(1) The issuance of a hazardous waste facilities permit or grant of interim status to any facility operator, who has not previously been granted interim status, within 30 days after the facility permit or grant of interim status is issued.

(2) When any facility changes size category pursuant to Section 25205.4 of the Health and Safety Code.

(b) This section shall become operative July 1, 1991.

SEC. 22. Section 43152.10 of the Revenue and Taxation Code is amended to read:

43152.10. The fees imposed pursuant to Sections 25205.7, 25205.8, 25221, and 25343 of the Health and Safety Code, which are collected and administered under Sections 43053 and 43054, are due and payable within 30 days after the date of assessment and the feepayer shall deliver a remittance of the amount of the assessed fee to the office of the board within that 30-day period.

SEC. 23. Section 43152.9 of the Revenue and Taxation Code, as added by Chapter 1267 of the Statutes of 1990, is amended and renumbered to read:

43152.11. (a) The surcharge imposed pursuant to Section 25205.9 of the Health and Safety Code, which is collected and administered under Section 43055, is due and payable to the board on the last day of the month following the end of the calendar year.

(b) The surcharge shall be incorporated into the return form prescribed by the board, which every operator subject to the fee imposed pursuant to Section 25205.5 of the Health and Safety Code is required to file and pay annually, in accordance with Section 43152.7. The surcharge shall be in addition to the fee imposed by Section 25205.5 of the Health and Safety Code.

(c) The surcharge imposed by Section 25205.9 of the Health and Safety Code shall be offset by any fees paid by the generator during the preceding calendar year for a local hazardous waste management program conducted by a local agency pursuant to a memorandum of understanding with the department. The offset provided for under this subdivision shall be allowed to the same extent as the offset provided in subdivision (c) of Section 43152.7.

SEC. 24. Section 43152.12 is added to the Revenue and Taxation

Code, to read:

43152.12. (a) In addition to the requirements imposed pursuant to Section 43152.6, every operator of a facility subject to the fee specified in Section 25205.2 of the Health and Safety Code shall make a prepayment of the fee to the board, which is due and payable on or before April 25 of each calendar year. The prepayment shall be accompanied by a prepayment return in a form prescribed by the board.

(b) For purposes of subdivision (a), the amount of the prepayment shall be not less than 50 percent of the applicable fee imposed on the facility, based on the facility's type and size, as specified in Sections 25205.1 and 25205.4 of the Health and Safety Code, for the months of January, February, and March of the current calendar year in which the prepayment is due.

(c) The board shall credit the amount of the prepayment against the amount of the fee due and payable for the reporting period in which the prepayment is due.

(d) Any person required to make a prepayment pursuant to this section who fails to make a prepayment by April 25 shall also pay the penalties and interest in accordance with Sections 43155 and 43156.

(e) This section shall become operative July 1, 1991.

SEC. 25. Section 43155 of the Revenue and Taxation Code is amended to read:

43155. (a) If the tax is not paid to the board within the time prescribed for the payment of the tax, a penalty of 10 percent of the amount of the tax shall be added thereto on account of the delinquency.

(b) This section shall become inoperative on July 1, 1991, and, as of January 1, 1992, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1992, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 26. Section 43155 is added to the Revenue and Taxation Code, to read:

43155. (a) If the tax is not paid to the board within the time prescribed for the payment of the tax or prepayment, a penalty of 10 percent of the amount of the tax or prepayment shall be added thereto on account of the delinquency.

(b) This section shall become operative July 1, 1991.

SEC. 27. Section 43156 of the Revenue and Taxation Code is amended to read:

43156. (a) All taxes not paid on the date when due and payable shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from and after that date until paid.

(b) This section shall become inoperative on July 1, 1991, and, as of January 1, 1992, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1992, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 28. Section 43156 is added to the Revenue and Taxation

Code, to read:

43156. (a) All taxes or prepayments not paid on the date when due and payable shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from and after that date until paid.

(b) This section shall become operative July 1, 1991.

SEC. 29. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 30. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide funding for the programs managing hazardous waste and cleaning up hazardous substances, thereby protecting public health and safety and the environment, it is necessary that this act take effect immediately.

CHAPTER 1124

An act to amend Sections 25158.1, 25200.10, and 25205.7 of the Health and Safety Code, relating to hazardous substances.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 25158.1 of the Health and Safety Code is amended to read:

25158.1. (a) The department shall allow any county, city, or special district which operates a program for the collection, treatment, recycling, or disposal of hazardous wastes generated by households, or any person operating a household hazardous waste collection program under an agreement with a public agency, to allow small quantity commercial sources which comply with subdivision (c) of Section 25163 and the requirements for conditionally exempt small quantity generators specified in Section 261.5 of Title 40 of the Code of Federal Regulations to participate in the program.

(b) A public agency which operates a household hazardous waste

collection program, or any person operating a household hazardous waste collection program under an agreement with a public agency, which accepts hazardous waste from small quantity commercial sources pursuant to this section shall not accept more than 100 kilograms of hazardous waste per month, or for perchloroethylene, not more than 50 kilograms of hazardous waste shall be accepted from any one small quantity commercial source at such a program.

(c) A public agency, or any person operating a household hazardous waste collection program under an agreement with a public agency, which accepts hazardous waste from small quantity commercial sources at a household hazardous waste collection program pursuant to this section may charge businesses using the collection program a fee based upon the cost to the public agency or person of operating the collection program.

(d) For the purposes of this section, "small quantity commercial source" means a business which generates less than 100 kilograms of household waste, as defined in paragraph (1) of subdivision (b) of Section 261.4 of Title 40 of the Code of Federal Regulations, or which meets the criteria for conditionally exempt small quantity generators specified in Section 261.5 of Title 40 of the Code of Federal Regulations, or, if the hazardous waste is perchloroethylene, a business which generates less than 50 kilograms per month and meets the criteria set forth in Section 261.4 or 261.5 of Title 40 of the Code of Federal Regulations.

The department may determine whether the quantity limits established by this subdivision adequately provide for the environmentally safe and effective operation of household hazardous waste collection programs which accept hazardous waste from small quantity commercial sources.

(e) The department shall adopt regulations for household hazardous waste collection programs which accept hazardous waste from small quantity commercial sources. The regulations shall provide for the compliance of these programs with the applicable provisions of this chapter, and shall facilitate and promote the recycling of hazardous waste over other waste management alternatives, the safe transport of hazardous waste to collection programs, and the compliance of participating generators with the monthly quantity limitations established by subdivision (d).

SEC. 2. Section 25200.10 of the Health and Safety Code is amended to read:

25200.10. (a) Except as provided in subdivision (d), the department shall require, and any permit issued by the department shall require, corrective action for all releases of hazardous waste or constituents from a solid waste management unit or a hazardous waste management unit at a facility engaged in hazardous waste management, regardless of the time at which waste was released at the facility. Any corrective action required pursuant to this section shall require that corrective action be taken beyond the facility boundary where necessary to protect human health or the

environment, unless the owner or operator demonstrates to the satisfaction of the department that despite the owner's or operator's best efforts, the owner or operator is unable to obtain the necessary permission to undertake this action. When corrective action cannot be completed prior to issuance of the permit, the permit shall contain schedules of compliance for corrective action and assurances of financial responsibility for completing the corrective action.

(b) This section does not limit the department's authority to require corrective action pursuant to Section 25187.

(c) For purposes of this section, "facility" means the entire site that is under the control of the owner or operator seeking a hazardous waste facilities permit.

(d) This section does not apply to a permit issued to a local government agency for purposes of operating a household hazardous waste program which is operated only for a limited and specified period of time.

SEC. 3. Section 25205.7 of the Health and Safety Code is amended to read:

25205.7. (a) The board shall assess a fee for any application for a new hazardous waste facilities permit, a permit for a hazardous waste facility which would manage extremely hazardous waste, a variance, or a permit modification issued by the department pursuant to this chapter or the regulations adopted pursuant to this chapter. The board shall also assess a fee for any hazardous waste facility which intends to operate pursuant to a permit by regulation governed by this chapter or the regulations adopted pursuant to this chapter, which shall be due and payable upon the facility's notification to the department of its intent to operate in this manner. The fee shall be nonrefundable, even if the application is withdrawn or the permit, variance, or certification is denied. The department shall provide the board with any information which is necessary to assess fees pursuant to this section. The fee shall be collected in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code, and deposited into the Hazardous Waste Control Account. A hazardous waste facility which is assessed a fee pursuant to more than one of subdivisions (c) to (i), inclusive, shall pay only the higher fee.

(b) The amounts stated in this section shall be base rates for the 1989–90 fiscal year. Thereafter the fees shall be adjusted annually to reflect increases or decreases in the cost of living, as measured by the Consumer Price Index for the United States, as reported by the Department of Labor or a successor agency of the United States government. The fee shall be assessed upon application or notification to the department.

(c) A person submitting a hazardous waste facilities permit application for a land disposal facility shall pay eighty-three thousand dollars ($83,000) for a small facility, one hundred seventy-seven thousand dollars ($177,000) for a medium facility, and three hundred four thousand dollars ($304,000) for a large facility.

(d) A person submitting a hazardous waste facilities permit application for any incinerator shall pay fifty thousand dollars ($50,000) for a small facility, one hundred six thousand dollars ($106,000) for a medium facility, and one hundred eighty-two thousand dollars ($182,000) for a large facility.

(e) A person submitting a hazardous waste facilities permit application for a storage facility, a treatment facility, or a storage and treatment facility shall pay seventeen thousand dollars ($17,000) for a small facility, thirty-one thousand dollars ($31,000) for a medium facility, and sixty thousand dollars ($60,000) for a large facility.

(f) A person submitting a hazardous waste facilities permit application for a transportable treatment unit shall pay thirteen thousand dollars ($13,000) for a small unit, thirty thousand dollars ($30,000) for a medium unit, and sixty thousand dollars ($60,000) for a large unit.

(g) (1) A person submitting a request for a variance shall pay three thousand dollars ($3,000) for a variance from any hazardous waste storage requirements imposed by this chapter, three hundred dollars ($300) for a variance issued pursuant to Section 25179.8, three hundred dollars ($300) for a variance to allow the use of a test method or analytical method which is an alternative to the methods prescribed by regulation for use in classifying a waste, eight hundred dollars ($800) for a variance from the requirements for hazardous waste haulers imposed by this chapter, and eight thousand dollars ($8,000) for all other variances. If the variance application requests a variance from more than one specific statute or regulation, a separate fee may be assessed for each statute or regulation from which the variance is requested.

(2) If the variance contains no significant changes from a variance previously issued to the same owner or operator, the fee shall be 25 percent of the amount otherwise provided for by this section. A change is a significant change if, had it been made to a permit, it would have been a class 2 or class 3 modification, as specified in subdivision (j).

(3) Any variance granted pursuant to Article 6.6 (commencing with Section 66565) of Chapter 30 of Division 4 of Title 22 of the California Code of Regulations is not subject to a fee under this section.

(h) A person required to notify the department of the person's intent to operate a facility pursuant to a permit by regulation shall pay one thousand dollars ($1,000) for each initial notification and not more than one thousand dollars ($1,000) for each notification thereafter, as specified in the regulations adopted by the department.

(i) A person applying for approval of an application to manage extremely hazardous waste shall pay two hundred dollars ($200), in addition to any other fee imposed by this section.

(j) (1) A person requesting a class 1 permit modification, as defined in the regulations, shall pay a fee of one thousand five

hundred dollars ($1,500).

(2) A person requesting a class 2 permit modification, as defined in the regulations, shall pay a fee equal to 40 percent of the fee for a new hazardous waste facilities permit for that facility, except that person shall pay 30 percent of the fee for a new permit for a land disposal facility or an incinerator.

(3) A person requesting a class 3 permit modification, as defined in the regulations, shall pay a fee equal to 80 percent of the fee for a new hazardous waste facilities permit for that facility, except that person shall pay 60 percent of the fee for a new permit for a land disposal facility or an incinerator.

(k) Permits for postclosure shall be required for hazardous waste facilities if hazardous wastes remain after closure which will not be subject to the requirements of any other hazardous waste facilities permit issued by the department at the time of postclosure permit approval.

(1) A person submitting a hazardous waste facilities permit application for a postclosure permit shall pay a fee of eight thousand dollars ($8,000) for a small facility, eighteen thousand dollars ($18,000) for a medium facility, and thirty thousand dollars ($30,000) for a large facility.

(2) For purposes of this subdivision and paragraph (8) of subdivision (c) of Section 25205.4, and notwithstanding subdivision (*l*), any facility or unit is "small" if 0.5 tons (1,000 pounds) or less of hazardous waste remain after closure, "medium" if more than 0.5 tons (1,000 pounds), but less than 1,000 tons of hazardous waste remain after closure, and "large" if 1,000 or more tons of hazardous waste remain after closure.

(*l*) For purposes of this section, and notwithstanding Section 25205.1, any facility or unit is "small" if it manages 0.5 tons (1,000 pounds) or less of hazardous waste during any one month of the state's current fiscal year, "medium" if it manages more than 0.5 tons (1,000 pounds), but less than 1,000 tons, of hazardous waste during any one month of the state's current fiscal year, and "large" if it manages 1,000 or more tons of hazardous waste during any one month of the state's current fiscal year.

(m) The fees assessed pursuant to this section do not apply to any permit or variance to operate a research, development, and demonstration facility, if the duration of the permit or variance is not longer than one year, unless the permit or variance is renewed pursuant to the regulations adopted by the department. For purposes of this section, a "research, development, and demonstration facility" is a facility which proposes to utilize an innovative and experimental hazardous waste treatment technology or process for which regulations prescribing permit standards have not been adopted.

(n) The fees assessed pursuant to this section do not apply to an extremely hazardous waste permit or to any variance issued to a local government agency to transport wastes for purposes of operating a

household hazardous waste facility or from a household hazardous waste facility receiving hazardous waste from small quantity commercial sources pursuant to Section 25258.1.

(o) The fees assessed pursuant to subdivision (i) do not apply to any government agency for hazardous wastes which result when the government agency, or its contractor, investigates, removes, or remedies a release of hazardous waste caused by another person.

(p) In each instance when a government agency uses its extremely hazardous waste permit for emergency response activities, the government agency shall send a copy of the permit to the department.

SEC. 4. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. However, no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provision of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1125

An act to amend Sections 25200.1, 25205, 25205.1, 25205.2, and 25205.5 of, and to add Sections 25201.3, 25201.4, 25205.12, 25205.13, and 25245.5 to, the Health and Safety Code, relating to hazardous waste.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 25200.1 of the Health and Safety Code is amended to read:

25200.1. Notwithstanding Section 25200, the department shall not issue a hazardous waste facility permit to a facility which commences operation on or after January 1, 1987, unless the department determines that the facility operator is in compliance with regulations adopted by the department pursuant to this chapter requiring that the operator provide financial assurance that the

operator can respond adequately to damage claims arising out of the operation of the facility or the facility is exempt from these financial assurance requirements pursuant to Section 25245.5.

SEC. 2. Section 25201.3 is added to the Health and Safety Code, to read:

25201.3. (a) A local agency shall not deem a generator of dilute aqueous waste containing metals, who is authorized by the department to treat that waste onsite pursuant to a permit by regulation, to be operating a hazardous waste treatment facility for purposes of making a land use decision, and the generator is exempt from the public notice requirements in the regulations adopted by the department concerning a permit by regulation, if all of the following conditions are met:

(1) The generator provides public notice within seven days of submitting the initial facility-specific notification required by the regulations adopted by the department concerning a permit by regulation by publication of a notice in a daily or weekly major local newspaper of general circulation in the area of the generator's facility. The public notice shall, at a minimum, contain all of the following information:

(A) Name of the owner or operator of the treatment unit followed by the words "has notified the Department of Toxic Substances Control of the intended operation of a wastewater pretreatment unit under a permit by rule at _____ (the physical address of the facility)."

(B) A brief description of the business conducted at the facility.

(C) Name, address, and telephone number of a person from whom interested parties may obtain further information.

(D) A brief description of the waste to be treated and the treatment process to be used.

(E) A list of the agencies, including the department, that have been notified of the proposed treatment.

(2) Except as provided in paragraph (3), the generator does not, in any manner, allow the commingling of any hazardous wastes which are not dilute aqueous waste containing metals with the dilute aqueous waste containing metals that are treated pursuant to this section.

(3) Notwithstanding paragraph (2), a generator treating dilute aqueous waste containing metals pursuant to this section may commingle spent cleaners with dilute aqueous waste containing metals to the extent necessary for pH adjustment, if the spent cleaners do not contain more than 1,400 milligrams per liter of the metals listed in Section 66261.24 of Title 22 of the California Code of Regulations, the generator notifies the department of the manner in which it uses the spent cleaners in the notice to the department required under the regulations concerning a permit by regulation, and the generator keeps records demonstrating compliance with this paragraph.

(b) For purposes of this section, the following definitions shall

apply:

(1) "Dilute aqueous waste containing metals" means a liquid waste containing water and less than 1 percent by weight of suspended solids which is hazardous only because it contains a metal or combination of metals listed in Section 66699 of Title 22 of the California Code of Regulations, and which contains not more than 750 milligrams per liter of that metal or combination of metals.

(2) "Land use decision" means a discretionary decision of a local agency concerning a hazardous waste facility project, as defined in subdivision (b) of Section 25199.1, including the issuance of a land use permit or conditional use permit, the granting of a variance, the subdivision of property, and the modification of existing property lines pursuant to Title 7 (commencing with Section 65000) of the Government Code, and any local agency decision concerning a hazardous waste facility which is in existence and the enforcement of those decisions. This section does not limit or restrict the existing authority of a local agency to condition or otherwise regulate generators of dilute aqueous waste containing metals who treat the waste onsite pursuant to a permit by regulation.

(c) The department shall establish a program to inspect generators subject to this section for compliance with the requirements of subdivision (a) and the regulations adopted by the department concerning a permit by regulation. The department may expend the revenues generated by the fees paid pursuant to subdivision (h) of Section 25205.7 by generators subject to this section which are deposited in the Hazardous Waste Control Account, to implement the program required by this section, upon appropriation by the Legislature, and the department shall inspect each facility subject to this section within two years of the date the department first authorizes the generator to operate pursuant to a permit by regulation and at least once every two years thereafter. The department may enter into agreements with counties and cities, including agreements to provide funding, to authorize a county or city to act on behalf of the department to conduct inspections of facilities operating pursuant to this section.

SEC. 3. Section 25201.4 is added to the Health and Safety Code, to read:

25201.4. (a) A generator of effluent hazardous waste from the processing of silver halide based imaging products may treat the waste onsite using a silver recovery unit without being deemed a hazardous waste facility pursuant to this chapter if all the following conditions are met:

(1) The effluent is a non-RCRA hazardous waste or the treatment of the effluent is exempt from hazardous waste treatment facility permit requirements pursuant to the federal act.

(2) The effluent is a hazardous waste solely due to its silver content.

(3) The effluent is treated at the same facility at which the effluent was generated.

(4) The effluent is treated within 90 days of its generation.

(5) The effluent is treated in a tank or container.

(6) The effluent is managed in accordance with all applicable requirements for generators of hazardous waste under this chapter and the regulations adopted by the department pursuant to this chapter.

(7) The total influent hazardous waste stream treated does not exceed 150 gallons in any calendar month.

(8) The generator complies with all local requirements applicable to the treatment of the waste.

(9) The generator's facility does not require a hazardous waste facilities permit for any other hazardous waste management activity.

(b) A local agency shall not deem a generator of effluent from the processing of silver halide based imaging products, who is authorized by the department to treat that waste onsite using a silver recovery unit pursuant to a permit by regulation, to be operating a hazardous waste treatment facility for purposes of making a land use decision, and the generator is exempt from the public notice requirements in the regulations adopted by the department concerning a permit by regulation, if the generator of the effluent provides public notice within seven days of submitting the initial facility-specific notification required by the regulations adopted by the department concerning a permit by regulation by publication of a notice in a daily or weekly major local newspaper of general circulation in the area of the generator's facility. The public notice shall, at a minimum, contain all of the following information:

(1) Name of the owner or operator of the treatment unit followed by the words "has notified the Department of Toxic Substances Control of the intended operation of a silver recovery unit under a permit by rule at _____ (the physical address of the facility)."

(2) A brief description of the business conducted at the facility.

(3) Name, address, and telephone number of a person from whom interested parties may obtain further information.

(4) A brief description of the waste to be treated and the treatment process to be used.

(5) A list of the agencies, including the department, that have been notified of the proposed treatment.

(c) "Land use decision" means a discretionary decision of a local agency concerning a hazardous waste facility project, as defined in subdivision (b) of Section 25199.1, including the issuance of a land use permit or conditional use permit, the granting of a variance, the subdivision of property, and the modification of existing property lines pursuant to Title 7 (commencing with Section 65000) of the Government Code, and any local agency decision concerning a hazardous waste facility which is in existence and the enforcement of those decisions. This section does not limit or restrict the existing authority of a local agency to condition or otherwise regulate generators of effluent hazardous waste from the processing of silver halide based imaging products who treat that waste onsite using a

silver recovery unit pursuant to a permit by regulation.

(d) The department shall establish a program to inspect generators subject to this section for compliance with the requirements of subdivision (b) and the regulations adopted by the department concerning a permit by regulation. The department may expend the revenues generated by the fees paid pursuant to subdivision (h) of Section 25205.7 by generators subject to this section, which are deposited in the Hazardous Waste Control Account, to implement the program required by this section, upon appropriation by the Legislature, and the department shall inspect each facility subject to this section within two years of the date the department first authorizes a generator to operate pursuant to a permit by regulation and at least once every two years thereafter. The department may enter into agreements with counties and cities, including agreements to provide funding, to authorize a county or city to act on behalf of the department to conduct inspections of facilities operating pursuant to this section.

SEC. 4. Section 25205 of the Health and Safety Code is amended to read:

25205. Except as provided in Section 25245.5, the department shall not issue or renew a permit to operate a hazardous waste facility unless the owner or operator of the facility establishes and maintains the financial assurance prescribed pursuant to Section 25245.

SEC. 5. Section 25205.1 of the Health and Safety Code is amended to read:

25205.1. For purposes of this article the following definitions apply:

(a) "Board" means the State Board of Equalization.

(b) "Facility" means any units or other structures, and all contiguous land, used for the treatment, transfer, storage, resource recovery, disposal, or recycling of hazardous waste, which has been issued or deemed to hold a permit or a grant of interim status by the department pursuant to Article 9 (commencing with Section 25200) or which is operated in such a manner that the facility is required to obtain a permit or grant of interim status. "Facility" does not include either of the following:

(1) Any facility operated by a local government agency, or by any person operating a hazardous waste collection program under an agreement with a public agency, which is used for any of the following:

(A) Household hazardous waste collection.

(B) The collection of hazardous waste from small quantity commercial sources pursuant to Section 25158.1.

(C) Hazardous wastes which meet the requirements of paragraph (3) of subdivision (a) of Section 25174.7.

(2) That portion of a solid waste management facility permitted pursuant to Chapter 3 (commencing with Section 44001) of Part 4 of Division 30 of the Public Resources Code, which is used for the segregation, handling, and storage of hazardous waste separated

from solid waste loads received by the facility, pursuant to a load checking program.

(c) "Large storage facility" means a storage facility which stores 1,000 or more tons of hazardous waste during any one month of the state's current fiscal year commencing on or after July 1, 1988.

(d) "Large treatment facility" means a treatment facility which treats or recycles 1,000 or more tons of hazardous waste during any one month of the state's current fiscal year commencing on or after July 1, 1988.

(e) "Generator" means a person who generates volumes of hazardous waste on or after July 1, 1988, in those amounts specified in subdivision (b) of Section 25205.5 at an individual site commencing on or after July 1, 1988.

(f) "Ministorage facility" means a storage facility which stores 0.5 tons (1,000 pounds) or less of hazardous waste during any one month.

(g) "Minitreatment facility" means a treatment facility which treats or recycles 0.5 tons (1,000 pounds) or less of hazardous waste during any one month.

(h) "Site" means the location of an operation which generates hazardous wastes and which is noncontiguous to any other location of these operations owned by the generator.

(i) "Small storage facility" means a storage facility which stores more than 0.5 tons (1,000 pounds), but less than 1,000 tons, of hazardous waste during any one month.

(j) "Small treatment facility" means a treatment facility which treats or recycles more than 0.5 tons (1,000 pounds), but less than 1,000 tons, of hazardous waste during any month.

SEC. 5.1. Section 25205.1 of the Health and Safety Code, as added by Senate Bill 194 of the 1991–92 Regular Session of the Legislature, is amended to read:

25205.1. For purposes of this article the following definitions apply:

(a) "Board" means the State Board of Equalization.

(b) "Facility" means any units or other structures, and all contiguous land, used for the treatment, transfer, storage, resource recovery, disposal, or recycling of hazardous waste, which has been issued or deemed to hold a permit or a grant of interim status by the department pursuant to Article 9 (commencing with Section 25200) or which is operated in such a manner that the facility is required to obtain a permit or grant of interim status. "Facility" does not include either of the following:

(1) Any facility operated by a local government agency, or by any person operating a hazardous waste collection program under an agreement with a public agency, which is used for any of the following:

(A) Household hazardous waste collection.

(B) The collection of hazardous waste from small quantity commercial sources pursuant to Section 25158.1.

(C) Hazardous wastes which meet the requirements of paragraph

(3) of subdivision (a) of Section 25174.7.

(2) That portion of a solid waste management facility permitted pursuant to Chapter 3 (commencing with Section 44001) of Part 4 of Division 30 of the Public Resources Code, which is used for the segregation, handling, and storage of hazardous waste separated from solid waste loads received by the facility, pursuant to a load checking program.

(c) "Large storage facility" means a storage facility which stores 1,000 or more tons of hazardous waste during any one month of the current reporting period commencing on or after July 1, 1991.

(d) "Large treatment facility" means a treatment facility which treats or recycles 1,000 or more tons of hazardous waste during any one month of the current reporting period commencing on or after July 1, 1991.

(e) "Generator" means a person who generates volumes of hazardous waste on or after July 1, 1988, in those amounts specified in subdivision (b) of Section 25205.5 at an individual site commencing on or after July 1, 1988.

(f) "Ministorage facility" means a storage facility which stores 0.5 tons (1,000 pounds) or less of hazardous waste during any one month of the current reporting period commencing on or after July 1, 1991.

(g) "Minitreatment facility" means a treatment facility which treats or recycles 0.5 tons (1,000 pounds) or less of hazardous waste during any one month of the current reporting period commencing on or after July 1, 1991.

(h) "Site" means the location of an operation which generates hazardous wastes and which is noncontiguous to any other location of these operations owned by the generator.

(i) "Small storage facility" means a storage facility which stores more than 0.5 tons (1,000 pounds), but less than 1,000 tons, of hazardous waste during any one month of the current reporting period commencing on or after July 1, 1991.

(j) "Small treatment facility" means a treatment facility which treats or recycles more than 0.5 tons (1,000 pounds), but less than 1,000 tons, of hazardous waste during any month of the current reporting period commencing on or after July 1, 1991.

(k) This section shall become operative July 1, 1991.

SEC. 5.2. Section 25205.1 of the Health and Safety Code is amended to read:

25205.1. For purposes of this article the following definitions apply:

(a) "Board" means the State Board of Equalization.

(b) "Facility" means any units or other structures, and all contiguous land, used for the treatment, transfer, storage, resource recovery, disposal, or recycling of hazardous waste, which has been issued or deemed to hold a permit or a grant of interim status by the department pursuant to Article 9 (commencing with Section 25200) or which is operated in such a manner that the facility is required to obtain a permit or grant of interim status. "Facility" does not include

either of the following:

(1) Any facility operated by a local government agency, or by any person operating a hazardous waste collection program under an agreement with a public agency, which is used for any of the following:

(A) Household hazardous waste collection.

(B) The collection of hazardous waste from small quantity commercial sources pursuant to Section 25158.1.

(C) Hazardous wastes which meet the requirements of paragraph (3) of subdivision (a) of Section 25174.7.

(2) That portion of a solid waste management facility permitted pursuant to Chapter 3 (commencing with Section 44001) of Part 4 of Division 30 of the Public Resources Code, which is used for the segregation, handling, and storage of hazardous waste separated from solid waste loads received by the facility, pursuant to a load checking program.

(3) A facility used solely for the treatment, transfer, storage, resource recovery, disposal, or recycling of hazardous waste which results when a government agency, or its contractor, investigates, removes, or remedies a release of hazardous waste caused by another person.

(c) "Large storage facility" means a storage facility which stores 1,000 or more tons of hazardous waste during any one month of the state's current fiscal year commencing on or after July 1, 1988.

(d) "Large treatment facility" means a treatment facility which treats or recycles 1,000 or more tons of hazardous waste during any one month of the state's current fiscal year commencing on or after July 1, 1988.

(e) "Generator" means a person who generates volumes of hazardous waste on or after July 1, 1988, in those amounts specified in subdivision (b) of Section 25205.5 at an individual site commencing on or after July 1, 1988.

(f) "Mini storage facility" means a storage facility which stores 0.5 tons (1,000 pounds) or less of hazardous waste during any one month.

(g) "Mini treatment facility" means a treatment facility which treats or recycles 0.5 tons (1,000 pounds) or less of hazardous waste during any one month.

(h) "Site" means the location of an operation which generates hazardous wastes and which is noncontiguous to any other location of these operations owned by the generator.

(i) "Small storage facility" means a storage facility which stores more than 0.5 tons (1,000 pounds), but less than 1,000 tons, of hazardous waste during any one month.

(j) "Small treatment facility" means a treatment facility which treats or recycles more than 0.5 tons (1,000 pounds), but less than 1,000 tons, of hazardous waste during any month.

SEC. 5.3. Section 25205.1 of the Health and Safety Code, as added by Senate Bill 194 of the 1991–92 Regular Session of the Legislature, is amended to read:

25205.1. For purposes of this article the following definitions apply:

(a) "Board" means the State Board of Equalization.

(b) "Facility" means any units or other structures, and all contiguous land, used for the treatment, transfer, storage, resource recovery, disposal, or recycling of hazardous waste, which has been issued or deemed to hold a permit or a grant of interim status by the department pursuant to Article 9 (commencing with Section 25200) or which is operated in such a manner that the facility is required to obtain a permit or grant of interim status. "Facility" does not include either of the following:

(1) Any facility operated by a local government agency, or by any person operating a hazardous waste collection program under an agreement with a public agency, which is used for any of the following:

(A) Household hazardous waste collection.

(B) The collection of hazardous waste from small quantity commercial sources pursuant to Section 25158.1.

(C) Hazardous wastes which meet the requirements of paragraph (3) of subdivision (a) of Section 25174.7.

(2) That portion of a solid waste management facility permitted pursuant to Chapter 3 (commencing with Section 44001) of Part 4 of Division 30 of the Public Resources Code, which is used for the segregation, handling, and storage of hazardous waste separated from solid waste loads received by the facility, pursuant to a load checking program.

(3) A facility used solely for the treatment, transfer, storage, resource recovery, disposal, or recycling of hazardous waste which results when a government agency, or its contractor, investigates, removes, or remedies a release of hazardous waste caused by another person.

(c) "Large storage facility" means a storage facility which stores 1,000 or more tons of hazardous waste during any one month of the current reporting period commencing on or after July 1, 1991.

(d) "Large treatment facility" means a treatment facility which treats or recycles 1,000 or more tons of hazardous waste during any one month of the current reporting period commencing on or after July 1, 1991.

(e) "Generator" means a person who generates volumes of hazardous waste on or after July 1, 1988, in those amounts specified in subdivision (b) of Section 25205.5 at an individual site commencing on or after July 1, 1988.

(f) "Ministorage facility" means a storage facility which stores 0.5 tons (1,000 pounds) or less of hazardous waste during any one month of the current reporting period commencing on or after July 1, 1991.

(g) "Minitreatment facility" means a treatment facility which treats or recycles 0.5 tons (1,000 pounds) or less of hazardous waste during any one month of the current reporting period commencing on or after July 1, 1991.

(h) "Site" means the location of an operation which generates hazardous wastes and which is noncontiguous to any other location of these operations owned by the generator.

(i) "Small storage facility" means a storage facility which stores more than 0.5 tons (1,000 pounds), but less than 1,000 tons, of hazardous waste during any one month of the current reporting period commencing on or after July 1, 1991.

(j) "Small treatment facility" means a treatment facility which treats or recycles more than 0.5 tons (1,000 pounds), but less than 1,000 tons, of hazardous waste during any month of the current reporting period commencing on or after July 1, 1991.

(k) This section shall become operative July 1, 1991.

SEC. 6. Section 25205.2 of the Health and Safety Code is amended to read:

25205.2. (a) Except as provided in subdivision (c), in addition to the fees specified in Section 25174.1, each operator of a facility shall pay a facility fee for each state fiscal year, or any portion thereof, to the board based on the size and type of the facility, as specified in Section 25205.4. The department shall notify the board of all known facility operators by facility type and size at the time it establishes the facility fees pursuant to Section 25205.3. The department shall also notify the board of any operator issued a permit or grant of interim status within 30 days after a permit or grant of interim status is issued to the operator. The fee specified in this section does not apply to facilities operating pursuant to a permit by regulation, as specified in Section 25205.12.

(b) The board shall deposit all fees collected pursuant to subdivision (a) in the Hazardous Waste Control Account in the General Fund. The fees so deposited may be expended by the department, upon appropriation by the Legislature, for the purposes specified in subdivision (b) of Section 25174.

(c) Notwithstanding subdivision (a), a person who is issued a variance by the department from the requirement of obtaining a hazardous waste facilities permit or grant of interim status, or a person who is in a closure period approved by the department pursuant to Article 9 (commencing with Section 25200) and Article 12 (commencing with Section 25245), is not subject to the fee, for any fiscal year following the fiscal year in which the variance or closure was granted or approved by the department or in the fiscal year following any fiscal year in which the facility has completed all activities necessary for the department to approve the closure, including, but not limited to, submittal of a certification that these activities are completed to the department.

SEC. 6.1. Section 25205.2 of the Health and Safety Code, as added by Senate Bill 194 of the 1991–92 Regular Session of the Legislature, is amended to read:

25205.2. (a) Except as provided in subdivision (c), in addition to the fees specified in Section 25174.1, each operator of a facility shall pay a facility fee for each reporting period, or any portion thereof,

to the board based on the size and type of the facility, as specified in Section 25205.4. On or before January 31 of each calendar year, the department annually shall notify the board of all known facility operators by facility type and size. The department shall also notify the board of any operator issued a permit or grant of interim status within 30 days after a permit or grant of interim status is issued to the operator. The fee specified in this section does not apply to facilities operating pursuant to a permit by regulation, as specified in Section 25205.12.

(b) The board shall deposit all fees collected pursuant to subdivision (a) in the Hazardous Waste Control Account in the General Fund. The fees so deposited may be expended by the department, upon appropriation by the Legislature, for the purposes specified in subdivision (b) of Section 25174.

(c) Notwithstanding subdivision (a), a person who is issued a variance by the department from the requirement of obtaining a hazardous waste facilities permit or grant of interim status, or a person who is in a closure period approved by the department pursuant to Article 9 (commencing with Section 25200) and Article 12 (commencing with Section 25245), is not subject to the fee, for any reporting period following the reporting period in which the variance or closure was granted or approved by the department or in the reporting period following any reporting period in which the facility has completed all activities necessary for the department to approve the closure, including, but not limited to, submittal of a certification that these activities are completed to the department.

(d) This section shall become operative July 1, 1991.

SEC. 7. Section 25205.5 of the Health and Safety Code is amended to read:

25205.5. (a) In addition to the fee imposed pursuant to Section 25174.1, every generator of hazardous waste, in the amounts specified in subdivision (b), shall pay the board a generator fee for each generator site for each calendar year, or portion thereof, unless the generator has paid a facility fee, as specified in Section 25205.2, for each specific site, for the fiscal year which commenced during the calendar year for which the generator fee is due.

(b) Within 30 days of the enactment of the annual Budget Act, the board shall establish the generator fee specified in subdivision (a), as adjusted pursuant to subdivision (c), to be paid by generators subject to this section.

The base fee rate is two thousand four hundred dollars ($2,400).

(1) Each generator who generates an amount equal to, or more than, 5 tons, but less than 25 tons, of hazardous waste during the prior calendar year shall pay 5 percent of the base rate.

(2) Each generator who generates an amount equal to or more than 25 tons, but less than 50 tons, of hazardous waste during the prior calendar year shall pay 40 percent of the base rate.

(3) Each generator who generates an amount equal to, or more than, 50 tons, but less than 250 tons, of hazardous waste during the

prior calendar year shall pay the base rate.

(4) Each generator who generates an amount equal to, or more than, 250 tons, but less than 500 tons, of hazardous waste during the prior calendar year shall pay five times the base rate.

(5) Each generator who generates an amount equal to, or more than, 500 tons, but less than 1,000 tons, of hazardous waste during the prior calendar year shall pay 10 times the base rate.

(6) Each generator who generates an amount equal to, or more than, 1,000 tons, but less than 2,000 tons, of hazardous waste during the prior calendar year shall pay 15 times the base rate.

(7) Each generator who generates an amount equal to, or more than, 2,000 tons of hazardous waste during the prior calendar year shall pay 20 times the base rate.

(c) The base rate established pursuant to subdivision (b) is the base rate for the 1989–90 fiscal year and the board shall adjust the base rate annually to reflect increases or decreases in the cost of living, as measured by the Consumer Price Index issued by the United States Department of Labor or by a successor agency of the federal government.

(d) The establishment of the annual operating fee pursuant to this section is exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(e) The following materials are not hazardous wastes for purposes of this section:

(1) Hazardous materials which are recycled, and used onsite, and are not transferred offsite.

(2) Aqueous waste treated in a treatment unit operating, or which subsequently operates, pursuant to a permit by regulation. However, hazardous waste generated by a treatment unit treating aqueous waste pursuant to a permit by regulation, or by a unit which subsequently obtains a permit by regulation, is hazardous waste for purposes of this section.

(f) The fee imposed pursuant to this section shall be paid in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code.

(g) The amendment of this section made at the 1991–92 Regular Session of the Legislature does not constitute a change in, but is declaratory of, existing law.

SEC. 7.1. Section 25205.5 of the Health and Safety Code, as added by Senate Bill 194 of the 1991–92 Regular Session of the Legislature, is amended to read:

25205.5. (a) In addition to the fee imposed pursuant to Section 25174.1, every generator of hazardous waste, in the amounts specified in subdivision (b), shall pay the board a generator fee for each generator site for each calendar year, or portion thereof, unless the generator has paid a facility fee, as specified in Section 25205.2, for each specific site, for the calendar year for which the generator fee is due.

(b) Within 30 days of the enactment of the annual Budget Act, the

board shall establish the generator fee specified in subdivision (a), as adjusted pursuant to subdivision (c), to be paid by generators subject to this section.

The base fee rate is two thousand four hundred dollars ($2,400).

(1) Each generator who generates an amount equal to, or more than, five tons, but less than 25 tons, of hazardous waste during the prior calendar year shall pay 5 percent of the base rate.

(2) Each generator who generates an amount equal to or more than 25 tons, but less than 50 tons, of hazardous waste during the prior calendar year shall pay 40 percent of the base rate.

(3) Each generator who generates an amount equal to, or more than, 50 tons, but less than 250 tons, of hazardous waste during the prior calendar year shall pay the base rate.

(4) Each generator who generates an amount equal to, or more than, 250 tons, but less than 500 tons, of hazardous waste during the prior calendar year shall pay five times the base rate.

(5) Each generator who generates an amount equal to, or more than, 500 tons, but less than 1,000 tons, of hazardous waste during the prior calendar year shall pay 10 times the base rate.

(6) Each generator who generates an amount equal to, or more than, 1,000 tons, but less than 2,000 tons, of hazardous waste during the prior calendar year shall pay 15 times the base rate.

(7) Each generator who generates an amount equal to, or more than, 2,000 tons of hazardous waste during the prior calendar year shall pay 20 times the base rate.

(c) The base rate established pursuant to subdivision (b) is the base rate for the 1989-90 fiscal year and the board shall adjust the base rate annually to reflect increases or decreases in the cost of living, as measured by the Consumer Price Index issued by the United States Department of Labor or by a successor agency of the federal government.

(d) The establishment of the annual operating fee pursuant to this section is exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(e) The following materials are not hazardous wastes for purposes of this section:

(1) Hazardous materials which are recycled, and used onsite, and are not transferred offsite.

(2) Aqueous waste treated in a treatment unit operating, or which subsequently operates, pursuant to a permit by regulation. However, hazardous waste generated by a treatment unit treating aqueous waste pursuant to a permit by regulation, or by a unit which subsequently obtains a permit by regulation, is hazardous waste for purposes of this section.

(f) The fee imposed pursuant to this section shall be paid in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code.

(g) This section shall become operative July 1, 1991.

(h) The amendment of this section made at the 1991–92 Regular

Session of the Legislature does not constitute a change in, but is declaratory of, existing law.

SEC. 8. Section 25205.12 is added to the Health and Safety Code, to read:

25205.12. (a) The owner of a hazardous waste facility authorized by the department to operate pursuant to a permit by regulation is exempt from the facility fee specified in Section 25205.2 for any activities authorized by the permit by regulation at that facility for the fiscal year during which the authorization is effective.

(b) If a facility qualifying for a facility fee exemption pursuant to subdivision (a) conducts an activity which is eligible for authorization under a permit by regulation, and conducted this activity in a fiscal year prior to receiving authorization to operate from the department, the facility is also exempt from the fee for that fiscal year when the activities were conducted, including, but not before, the 1988–89 fiscal year. However, a facility may receive this retroactive exemption only if the facility owner or operator notifies the department of the person's intent to operate the facility pursuant to a permit by regulation within six months following the effective date of regulations establishing the facility's initial eligibility to operate pursuant to a permit by regulation.

(c) Subdivision (b) does not apply to any facility which was authorized by the department to operate on or before June 1, 1991.

SEC. 9. Section 25205.13 is added to the Health and Safety Code, to read:

25205.13. A generator that meets the conditions specified in subdivision (a) of Section 25201.4 is exempt from the facility fee specified in Section 25205.2 for all fiscal years prior to the 1991–92 fiscal year.

SEC. 10. Section 25245.5 is added to the Health and Safety Code, to read:

25245.5. (a) Notwithstanding any other provision of law, a person who treats waste pursuant to Section 25201.3 or 25201.4 is, before January 1, 1993, exempt from standards and regulations adopted by the department pursuant to paragraph (1) of subdivision (a) of Section 25245 that specify the financial assurances to be provided by that person that are necessary to respond adequately to damage claims arising out of the operation of the treatment unit. This section does not exempt such a person from the standards and regulations adopted by the department that require financial assurances for the cost of closure and subsequent maintenance of the treatment unit.

(b) On and after January 1, 1993, a person who treats waste pursuant to Section 25201.3 or 25201.4 shall have in place financial assurances which meet the standards and regulations adopted by the department pursuant to paragraph (1) of subdivision (a) of Section 25245.

SEC. 11. On or before January 1, 1993, the Insurance Commissioner shall submit a report to the Legislature on the

availability and affordability of third-party environmental liability insurance and possible alternative coverage mechanisms to assure coverage for third-party claims resulting from sudden accidental occurrences at hazardous waste facilities authorized by the Department of Toxic Substances Control to operate pursuant to a permit by regulation, including, but not limited to, those facilities specified in Section 25201.3 and subdivision (b) of Section 25201.4 of the Health and Safety Code. In obtaining information for this report, the commissioner shall conduct public hearings in northern and southern California during the 1992 calendar year.

SEC. 12. (a) Section 5.1 of this bill incorporates amendments to Section 25205.1 of the Health and Safety Code proposed by this bill and SB 194. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2) this bill amends Section 25205.1 of the Health and Safety Code, (3) SB 194 adds Section 25205.1 to the Health and Safety Code, (4) AB 604 is not enacted or as enacted does not amend that section, and (5) this bill is enacted after SB 194, in which case Section 25205.1 of the Health and Safety Code, as added by SB 194, shall remain operative only until the operative date of this bill, at which time Section 5.1 of this bill shall become operative and Sections 5, 5.2, and 5.3 of this bill shall not become operative.

(b) Section 5.2 of this bill incorporates amendments to Section 25205.1 of the Health and Safety Code proposed by both this bill and AB 604. It shall only become operative if (1) both bills are enacted and become effective January 1, 1992, (2) each bill amends Section 25205.1 of the Health and Safety Code, (3) SB 194 is not enacted or as enacted does not add or amend that section, and (4) this bill is enacted after AB 604, in which case Sections 5, 5.1, and 5.3 of this bill shall not become operative.

(c) Section 5.3 of this bill incorporates amendments to Section 25205.1 of the Health and Safety Code proposed by this bill, SB 194, and AB 604. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1992, (2) this bill and AB 604 amend Section 25205.1 of the Health and Safety Code, (3) SB 194 adds Section 25205.1 to the Health and Safety Code, and (4) this bill is enacted after SB 194 and AB 604, in which case Section 25205.1 of the Health and Safety Code, as added by SB 194, shall remain operative only until the operative date of this bill, at which time Section 5.3 of this bill shall become operative and Sections 5, 5.1, and 5.2 of this bill shall not become operative.

SEC. 13. Section 6.1 of this bill incorporates amendments to Section 25205.2 of the Health and Safety Code proposed by this bill and SB 194. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2) this bill amends Section 25205.2 of the Health and Safety Code, (3) SB 194 adds Section 25205.2 to the Health and Safety Code, and (4) this bill is enacted after SB 194, in which case Section 25205.2 of the Health and Safety Code, as added by SB 194, shall remain operative only

until the operative date of this bill, at which time Section 6.1 of this bill shall become operative, and Section 6 of this bill shall not become operative.

SEC. 14. Section 7.1 of this bill incorporates amendments to Section 25205.5 of the Health and Safety Code proposed by this bill and SB 194. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2) this bill amends Section 25205.5 of the Health and Safety Code, (3) SB 194 adds Section 25205.5 to the Health and Safety Code, and (4) this bill is enacted after SB 194, in which case Section 25205.5 of the Health and Safety Code, as added by SB 194, shall remain operative only until the operative date of this bill, at which time Section 7.1 of this bill shall become operative, and Section 7 of this bill shall not become operative.

SEC. 15. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1126

An act to amend Sections 25026, 25117.9, 25118, 25123.3, 25143.2, 25143.9, 25174.6, 25179.6, 25187.2, 25202, and 25343 of the Health and Safety Code, relating to hazardous substances, and making an appropriation therefor.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 25026 of the Health and Safety Code is amended to read:

25026. "Person" means an individual, trust, firm, joint stock company, business concern, partnership, association, and corporation, including, but not limited to, a government corporation. "Person" also includes any city, county, district, commission, the state or any department, agency, or political subdivision thereof, the Regents of the University of California, any interstate body, and the federal government or any department or agency thereof to the extent permitted by law.

SEC. 2. Section 25117.9 of the Health and Safety Code is amended

to read:

25117.9. "Non-RCRA hazardous waste" means all hazardous waste regulated in the state, other than RCRA hazardous waste, as defined in Section 25120.2. A hazardous waste regulated in the state is presumed to be RCRA hazardous waste, unless it is determined, pursuant to regulations adopted by the department, that the hazardous waste is a non-RCRA hazardous waste.

SEC. 3. Section 25118 of the Health and Safety Code is amended to read:

25118. "Person" means an individual, trust, firm, joint stock company, business concern, partnership, association, and corporation, including, but not limited to, a government corporation. "Person" also includes any city, county, district, commission, the state or any department, agency, or political subdivision thereof, any interstate body, and the federal government or any department or agency thereof to the extent permitted by law.

SEC. 4. Section 25123.3 of the Health and Safety Code is amended to read:

25123.3. (a) "Storage facility" means a hazardous waste facility at which the hazardous waste meets any of the following requirements:

(1) The hazardous waste is held in containers or tanks for greater than 90 days at an onsite facility.

(2) The hazardous waste is held at an onsite facility in tanks for any period of time and the quantity of the hazardous waste in any individual tank exceeds 5,000 gallons or 45,000 pounds, whichever is greater, or the aggregate amount of hazardous waste stored in tanks at the facility exceeds 50,000 gallons. For purposes of this paragraph, these quantities do not include hazardous waste stored in a portable tank used for a period of not more than 60 calendar days at an onsite facility or hazardous waste accumulated onsite which has been generated from onsite maintenance operations which occur less frequently than annually or hazardous waste which is held, as part of the ongoing treatment of that waste, in a tank which is authorized by the department to perform that treatment for that waste.

(3) The hazardous waste is held in containers or tanks for any period of time at an offsite facility which is not a transfer facility.

(4) The hazardous waste is held in containers or tanks at a transfer facility for periods greater than 144 hours.

(5) The hazardous waste is held at an onsite facility in any individual container of less than 5,000 gallons for any period of time, and the aggregate amount of hazardous waste stored in those containers, exclusive of tanks, at the facility exceeds 50,000 gallons. For purposes of this paragraph, this quantity does not include hazardous waste being accumulated at an initial accumulation point pursuant to subdivision (d).

(6) The hazardous waste is held at any facility for any period of time in a manner other than in a container or tank.

(b) The time period for calculating the 90-day period for purposes

of paragraph (1) of subdivision (a) begins when the facility has accumulated 100 kilograms of hazardous waste or one kilogram of extremely hazardous waste or acutely hazardous waste. However, if the facility generates more than 100 kilograms of hazardous waste or one kilogram of extremely hazardous waste or acutely hazardous waste during any calendar month, the time period begins when any amount of hazardous waste first begins to accumulate in that month.

(c) For purposes of this section, "transfer facility" means any offsite facility which is related to the transportation of hazardous waste, including, but not limited to, loading docks, parking areas, storage areas, and other similar areas where shipments of hazardous waste are held during the normal course of transportation.

(d) Notwithstanding paragraph (1) of subdivision (a), a generator of hazardous waste that accumulates waste onsite is not a storage facility if all of the following requirements are met:

(1) The generator accumulates a maximum of 55 gallons of hazardous waste, one quart of acutely hazardous waste, or one quart of extremely hazardous waste at an initial accumulation point which is at or near the area where the waste is generated and which is under the control of the operator of the process generating the waste.

(2) The generator accumulates the waste in containers other than tanks.

(3) The generator does not hold the hazardous waste onsite for more than one year from the initial date of accumulation, or 90 days from the date the quantity limitation specified in paragraph (1) of this subdivision is reached, whichever occurs first.

(4) The generator labels any container used for the accumulation of hazardous waste with the initial date of accumulation and with the words "hazardous waste" or other words that identify the contents of the container.

(5) Within three days of reaching any applicable quantity limitation specified in paragraph (1), the generator labels the container holding the accumulated hazardous waste with the date the quantity limitation was reached and either transports the waste offsite or holds the waste onsite and complies with the regulations adopted by the department establishing requirements for personnel training, preparedness and prevention, and contingency plans and emergency procedures applicable to storage facilities.

(6) The generator complies with regulations adopted by the department pertaining to the use and management of containers and any other regulations adopted by the department to implement this subdivision.

(7) The generator does not otherwise meet the definition of a storage facility.

SEC. 5. Section 25143.2 of the Health and Safety Code is amended to read:

25143.2. (a) Recyclable materials are subject to the requirements of this chapter and the regulations adopted by the

department to implement this chapter which apply to hazardous wastes, unless the department issues a variance pursuant to Section 25143, or except as provided otherwise in subdivision (b), (c), or (d) or the regulations adopted by the department pursuant to Sections 25150 and 25151. For the purposes of this section, recyclable material does not include infectious waste.

(b) Except as otherwise provided in subdivisions (e), (f) and (g), recyclable material which is managed in accordance with Section 25143.9 and is or will be recycled by any of the following methods shall be excluded from classification as a waste:

(1) Used or reused as an ingredient in an industrial process to make a product, if the material is not being reclaimed.

(2) Used or reused as a safe and effective substitute for commercial products, if the material is not being reclaimed.

(3) Returned to the original process from which the material was generated, without first being reclaimed, if the material is returned as a substitute for raw material feedstock, and the process uses raw materials as principal feedstocks.

(c) Except as otherwise provided in subdivision (e), any recyclable material may be recycled at a facility which is not authorized by the department pursuant to the applicable hazardous waste facilities permit requirements of Article 9 (commencing with Section 25200) if either of the following requirements is met:

(1) The material is a petroleum refinery waste containing oil which is converted into petroleum coke at the same facility at which the waste was generated, unless the resulting coke product would be identified as a hazardous waste under this chapter. A waste subject to this paragraph is exempt from this chapter to the same extent the waste is exempt from subsections (q), (r), and (s) of Section 6924 of Title 42 of the United States Code.

(2) The material meets all of the following conditions:

(A) The material is recycled and used at the same facility at which the material was generated.

(B) The material is recycled within 90 days of its generation.

(C) The material is managed in accordance with all applicable requirements for generators of hazardous wastes under this chapter and regulations adopted by the department.

(d) Except as otherwise provided in subdivisions (e), (f), and (g), recyclable material which meets the definition of a non-RCRA hazardous waste in Section 25117.9, is managed in accordance with Section 25143.9, and meets or will meet any of the following requirements is excluded from classification as a waste:

(1) The material can be shown to be recycled and used at the site where the material was generated.

(2) The material qualifies as one or more of the following:

(A) The material is a product, which has been processed from a hazardous waste, or which has been handled, at a facility authorized by the department pursuant to the facility permit requirements of Article 9 (commencing with Section 25200) to process or handle the

material, if the product meets both of the following conditions:

(i) The product does not contain constituents, other than those for which the material is being recycled which render the material hazardous under regulations adopted pursuant to Sections 25140 and 25141.

(ii) The product is used, or distributed or sold for use, in a manner for which the product is commonly used.

(B) The material is a petroleum refinery waste containing oil which is converted into petroleum coke at the same facility at which the waste was generated, unless the resulting coke product would be identified as a hazardous waste under this chapter.

(C) The material is oily waste, used oil, or spent nonhalogenated solvent which is managed by the owner or operator of a refinery which is processing primarily crude oil and which is not subject to permit requirements for recycling of used oil, or a public utility, or a corporate subsidiary, corporate parent, or subsidiary of the same corporate parent of the refinery or public utility, and which meets all of the following requirements:

(i) The material is either burned in an industrial boiler, an industrial furnace, an incinerator, or a utility boiler which complies with all applicable federal and state laws, or is recombined with normal process streams to produce a fuel.

(ii) The material is managed at the site where it was generated; managed at another site owned or operated by the generator, a corporate subsidiary of the generator, a subsidiary of the same entity of which the generator is a subsidiary, or the corporate parent of the generator; or, if the material is generated in the course of oil or gas exploration or production, managed by an unrelated refinery receiving the waste through a common pipeline.

(iii) The material does not contain constituents other than those for which the material is being recycled which render the material hazardous under regulations adopted pursuant to Sections 25140 and 25141.

(3) The material is transported between locations operated by the same person who generated the material, if the material is recycled at the last location operated by that person and all of the conditions of clauses (i) to (vi), inclusive, of subparagraph (A) of paragraph (4) are met. If requested by the department or by any law enforcement official, a person handling material subject to this paragraph shall, within 15 days of the request, supply documentation to show that the requirements of this paragraph have been satisfied.

(4) (A) The material is transferred between locations operated by the same person who generated the material, if the material is to be recycled at an authorized offsite hazardous waste facility and if all of the following conditions are met:

(i) The material is transferred by employees of that person in vehicles under the control of that person or by a registered hazardous waste hauler under contract to that person.

(ii) The material is not handled at any interim location.

(iii) The material is not held at any publicly accessible interim location for more than four hours unless required by other provisions of law.

(iv) The material is managed in compliance with the requirements of this chapter and the regulations adopted pursuant to this chapter prior to the initial transportation of the material and after the receipt of the material at the last location operated by that person. Upon receipt of the material at the last location operated by that person, the material shall be deemed to have been generated at that location.

(v) All of the following information is maintained in an operating log at the last location operated by that person:

(I) The name and address of each generator location contributing material to each shipment received.

(II) The quantity and type of material contributed by each generator to each shipment of material.

(III) The destination and intended disposition of all material shipped offsite or received.

(IV) The date of each shipment received or sent offsite.

The log shall be kept for at least three years after receipt of the material at that location.

(vi) If requested by the department, or by any law enforcement official, a person handling material subject to this paragraph shall, within 15 days of the request, supply documentation to show that the requirements of this paragraph have been satisfied.

(B) For purposes of paragraph (3) and subparagraph (A) of paragraph (4), "person" also includes corporate subsidiary, corporate parent, or subsidiary of the same corporate parent.

(C) Persons which are a corporate subsidiary, corporate parent, or subsidiary of the same corporate parent, and which manage recyclable materials under paragraph (3) or subparagraph (A) of paragraph (4), are jointly and severally liable for any activities exempt from regulation pursuant to this section.

(5) The material is used or reused as an ingredient in an industrial process to make a product, if the material is not being treated before introduction to that process except by one or more of the following procedures, and if any discharges to air from the following procedures do not contain constituents which are hazardous wastes pursuant to the department's regulations and comply with applicable air pollution control laws:

(A) Filtering.

(B) Screening.

(C) Sorting.

(D) Sieving.

(E) Grinding.

(F) Physical or gravity separation, without the addition of external heat or any chemicals.

(G) pH adjustment.

(H) Viscosity adjustment.

(6) The material is used or reused as a safe and effective substitute for commercial products, if the material is not being treated except by one or more of the following procedures, and if any discharges to air from the following procedures do not contain constituents which are hazardous wastes pursuant to the department's regulations and comply with applicable air pollution control laws:

(A) Filtering.

(B) Screening.

(C) Sorting.

(D) Sieving.

(E) Grinding.

(F) Physical or gravity separation, without the addition of external heat or any chemicals.

(G) pH adjustment.

(H) Viscosity adjustment.

(e) Notwithstanding subdivisions (b), (c), and (d), all of the following recyclable materials are hazardous wastes and subject to full regulation under this chapter, even if the recycling involves use, reuse, or return to the original process as described in subdivision (b), or even if the recycling involves activities or materials described in subdivisions (c) and (d):

(1) Materials which are a RCRA hazardous waste, as defined in Section 25120.2, used in a manner constituting disposal, or used to produce products that are applied to the land including, but not limited to, materials used to produce a fertilizer, soil amendment, agricultural mineral, or an auxiliary soil and plant substance. The department may adopt regulations to exclude materials from regulation pursuant to this paragraph.

(2) Materials which are a non-RCRA hazardous waste, as defined in Section 25117.9, and used in a manner constituting disposal or used to produce products that are applied to the land as a fertilizer, soil amendment, agricultural mineral, or an auxiliary soil and plant substance. The department may adopt regulations to exclude materials from regulation pursuant to this paragraph.

(3) Materials burned for energy recovery, used to produce a fuel, or contained in fuels, except materials exempted under paragraph (1) of subdivision (c) or excluded under subparagraph (B) or (C) of paragraph (2) of subdivision (d).

(4) Materials accumulated speculatively.

(5) Materials determined to be inherently wastelike pursuant to regulations adopted by the department.

(6) Used or spent etchants, stripping solutions, and plating solutions, which are transported to an offsite facility operated by a person other than the generator and which conform to either of the following:

(A) Meet a characteristic or a criterion of a hazardous waste established by the Environmental Protection Agency or the department.

(B) Are listed by the Environmental Protection Agency or the

department as a hazardous waste.

(7) Used oil, as defined in subdivision (a) of Section 25250.1, unless one of the following applies:

(A) The used oil meets the definition of recycled oil contained in subdivision (c) of Section 25250.1.

(B) The used oil is excluded under subparagraph (B) or (C) of paragraph (2) of subdivision (d) or under paragraph (4) of subdivision (d) of this section, under subdivision (e) of Section 25250.1, or under Section 25250.3.

(C) The used oil is used or reused on the site where it was generated or is excluded under paragraph (3) of subdivision (d) of this section and, in either situation, is not any of the following:

(i) Used in a manner constituting disposal or used to produce a product that is applied to land.

(ii) Burned for energy recovery or used to produce a fuel, unless the used oil is excluded under subparagraph (B) or (C) of paragraph (2) of subdivision (d).

(iii) Accumulated speculatively.

(iv) Determined to be inherently wastelike pursuant to regulations adopted by the department.

(f) (1) Any person who manages a recyclable material under a claim that the material qualifies for exclusion or exemption pursuant to this section shall provide, upon request, to the department, the Environmental Protection Agency, or any local agency or official authorized to bring an action as provided in Section 25180, all of the following information:

(A) The name, street and mailing address, and telephone number of the owner or operator of any facility that manages the material.

(B) Any other information related to that person's management of the material requested by the department, the Environmental Protection Agency, or the authorized local agency or official.

(2) Any person claiming an exclusion or an exemption shall maintain adequate records to demonstrate to the satisfaction of the requesting agency or official that there is a known market or disposition for the material, and that the requirements of any exemption or exclusion pursuant to this section are met.

(3) For purposes of determining that the conditions for exclusion from classification as a waste pursuant to this section are met, any person, facility, site, or vehicle engaged in the management of a material under a claim that the material is excluded from classification as a waste pursuant to this section shall be subject to Section 25185.

(g) For purposes of Chapter 6.8 (commencing with Section 25300), recyclable materials excluded from classification as a waste pursuant to this section are not excluded from the definition of hazardous substances in subdivision (g) of Section 25316.

SEC. 5.5. Section 25143.2 of the Health and Safety Code is amended to read:

25143.2. (a) Recyclable materials are subject to the

requirements of this chapter and the regulations adopted by the department to implement this chapter which apply to hazardous wastes, unless the department issues a variance pursuant to Section 25143, or except as provided otherwise in subdivision (b), (c), or (d) or the regulations adopted by the department pursuant to Sections 25150 and 25151. For the purposes of this section, recyclable material does not include infectious waste.

(b) Except as otherwise provided in subdivisions (e), (f) and (g), recyclable material which is managed in accordance with Section 25143.9 and is or will be recycled by any of the following methods shall be excluded from classification as a waste:

(1) Used or reused as an ingredient in an industrial process to make a product, if the material is not being reclaimed.

(2) Used or reused as a safe and effective substitute for commercial products, if the material is not being reclaimed.

(3) Returned to the original process from which the material was generated, without first being reclaimed, if the material is returned as a substitute for raw material feedstock, and the process uses raw materials as principal feedstocks.

(c) Except as otherwise provided in subdivision (e), any recyclable material may be recycled at a facility which is not authorized by the department pursuant to the applicable hazardous waste facilities permit requirements of Article 9 (commencing with Section 25200) if either of the following requirements is met:

(1) The material is a petroleum refinery waste containing oil which is converted into petroleum coke at the same facility at which the waste was generated, unless the resulting coke product would be identified as a hazardous waste under this chapter. A waste subject to this paragraph is exempt from this chapter to the same extent the waste is exempt from subsections (q), (r), and (s) of Section 6924 of Title 42 of the United States Code.

(2) The material meets all of the following conditions:

(A) The material is recycled and used at the same facility at which the material was generated.

(B) The material is recycled within 90 days of its generation.

(C) The material is managed in accordance with all applicable requirements for generators of hazardous wastes under this chapter and regulations adopted by the department.

(d) Except as otherwise provided in subdivisions (e), (f), (g), and (h), recyclable material which meets the definition of a non-RCRA hazardous waste in Section 25117.9, is managed in accordance with Section 25143.9, and meets or will meet any of the following requirements is excluded from classification as a waste:

(1) The material can be shown to be recycled and used at the site where the material was generated.

(2) The material qualifies as one or more of the following:

(A) The material is a product, which has been processed from a hazardous waste, or which has been handled, at a facility authorized by the department pursuant to the facility permit requirements of

Article 9 (commencing with Section 25200) to process or handle the material, if the product meets both of the following conditions:

(i) The product does not contain constituents, other than those for which the material is being recycled which render the material hazardous under regulations adopted pursuant to Sections 25140 and 25141.

(ii) The product is used, or distributed or sold for use, in a manner for which the product is commonly used.

(B) The material is a petroleum refinery waste containing oil which is converted into petroleum coke at the same facility at which the waste was generated, unless the resulting coke product would be identified as a hazardous waste under this chapter.

(C) The material is oily waste, used oil, or spent nonhalogenated solvent which is managed by the owner or operator of a refinery which is processing primarily crude oil and which is not subject to permit requirements for recycling of used oil, or a public utility, or a corporate subsidiary, corporate parent, or subsidiary of the same corporate parent of the refinery or public utility, and which meets all of the following requirements:

(i) The material is either burned in an industrial boiler, an industrial furnace, an incinerator, or a utility boiler which complies with all applicable federal and state laws, or is recombined with normal process streams to produce a fuel.

(ii) The material is managed at the site where it was generated; managed at another site owned or operated by the generator, a corporate subsidiary of the generator, a subsidiary of the same entity of which the generator is a subsidiary, or the corporate parent of the generator; or, if the material is generated in the course of oil or gas exploration or production, managed by an unrelated refinery receiving the waste through a common pipeline.

(iii) The material does not contain constituents other than those for which the material is being recycled which render the material hazardous under regulations adopted pursuant to Sections 25140 and 25141.

(D) The material is a fuel which is removed from a fuel tank, is either fuel contaminated with water or by nonhazardous debris, of not more than 2 percent by weight, including, but not limited to, rust or sand, or a fuel unintentionally mixed with an unused petroleum product, and is transferred to, and processed into a fuel at, a refinery which processes primarily crude oil.

(3) The material is transported between locations operated by the same person who generated the material, if the material is recycled at the last location operated by that person and all of the conditions of clauses (i) to (vi), inclusive, of subparagraph (A) of paragraph (4) are met. If requested by the department or by any law enforcement official, a person handling material subject to this paragraph shall, within 15 days of the request, supply documentation to show that the requirements of this paragraph have been satisfied.

(4) (A) The material is transferred between locations operated

by the same person who generated the material, if the material is to be recycled at an authorized offsite hazardous waste facility and if all of the following conditions are met:

(i) The material is transferred by employees of that person in vehicles under the control of that person or by a registered hazardous waste hauler under contract to that person.

(ii) The material is not handled at any interim location.

(iii) The material is not held at any publicly accessible interim location for more than four hours unless required by other provisions of law.

(iv) The material is managed in compliance with the requirements of this chapter and the regulations adopted pursuant to this chapter prior to the initial transportation of the material and after the receipt of the material at the last location operated by that person. Upon receipt of the material at the last location operated by that person, the material shall be deemed to have been generated at that location.

(v) All of the following information is maintained in an operating log at the last location operated by that person:

(I) The name and address of each generator location contributing material to each shipment received.

(II) The quantity and type of material contributed by each generator to each shipment of material.

(III) The destination and intended disposition of all material shipped offsite or received.

(IV) The date of each shipment received or sent offsite.

The log shall be kept for at least three years after receipt of the material at that location.

(vi) If requested by the department, or by any law enforcement official, a person handling material subject to this paragraph shall, within 15 days of the request, supply documentation to show that the requirements of this paragraph have been satisfied.

(B) For purposes of paragraph (3) and subparagraph (A) of paragraph (4), "person" also includes corporate subsidiary, corporate parent, or subsidiary of the same corporate parent.

(C) Persons which are a corporate subsidiary, corporate parent, or subsidiary of the same corporate parent, and which manage recyclable materials under paragraph (3) or subparagraph (A) of paragraph (4), are jointly and severally liable for any activities excluded from regulation pursuant to this section.

(5) The material is used or reused as an ingredient in an industrial process to make a product, if the material is not being treated before introduction to that process except by one or more of the following procedures, and if any discharges to air from the following procedures do not contain constituents which are hazardous wastes pursuant to the department's regulations and comply with applicable air pollution control laws:

(A) Filtering.

(B) Screening.

(C) Sorting
(D) Sieving.
(E) Grinding.
(F) Physical or gravity separation, without the addition of external heat or any chemicals.
(G) pH adjustment.
(H) Viscosity adjustment.

(6) The material is used or reused as a safe and effective substitute for commercial products, if the material is not being treated except by one or more of the following procedures, and if any discharges to air from the following procedures do not contain constituents which are hazardous wastes pursuant to the department's regulations and comply with applicable air pollution control laws:
(A) Filtering.
(B) Screening.
(C) Sorting.
(D) Sieving.
(E) Grinding.
(F) Physical or gravity separation, without the addition of external heat or any chemicals.
(G) pH adjustment.
(H) Viscosity adjustment.

(e) Notwithstanding subdivisions (b), (c), and (d), all of the following recyclable materials are hazardous wastes and subject to full regulation under this chapter, even if the recycling involves use, reuse, or return to the original process as described in subdivision (b), or even if the recycling involves activities or materials described in subdivisions (c) and (d):

(1) Materials which are a RCRA hazardous waste, as defined in Section 25120.2, used in a manner constituting disposal, or used to produce products that are applied to the land including, but not limited to, materials used to produce a fertilizer, soil amendment, agricultural mineral, or an auxiliary soil and plant substance.

(2) Materials which are a non-RCRA hazardous waste, as defined in Section 25117.9, and used in a manner constituting disposal or used to produce products that are applied to the land as a fertilizer, soil amendment, agricultural mineral, or an auxiliary soil and plant substance. The department may adopt regulations to exclude materials from regulation pursuant to this paragraph.

(3) Materials burned for energy recovery, used to produce a fuel, or contained in fuels, except materials exempted under paragraph (1) of subdivision (c) or excluded under subparagraph (B), (C) or (D) of paragraph (2) of subdivision (d).

(4) Materials accumulated speculatively.

(5) Materials determined to be inherently wastelike pursuant to regulations adopted by the department.

(6) Used or spent etchants, stripping solutions, and plating solutions, which are transported to an offsite facility operated by a person other than the generator and which are either of the

following:

(A) The etchants or solutions are no longer fit for their originally purchased or manufactured purpose.

(B) If the etchants or solutions are reused, the generator and the user cannot document that they are used for their originally purchased or manufactured purpose without prior treatment.

(7) Used oil, as defined in subdivision (a) of Section 25250.1, unless one of the following applies:

(A) The used oil is excluded under subparagraph (B) or (C) of paragraph (2) of subdivision (d) or under paragraph (4) of subdivision (d) of this section, under subdivision (e) of Section 25250.1, or under Section 25250.3.

(B) The used oil is used or reused on the site where it was generated or is excluded under paragraph (3) of subdivision (d) of this section and, in either situation, is not any of the following:

(i) Used in a manner constituting disposal or used to produce a product that is applied to land.

(ii) Burned for energy recovery or used to produce a fuel, unless the used oil is excluded under subparagraph (B) or (C) of paragraph (2) of subdivision (d).

(iii) Accumulated speculatively.

(iv) Determined to be inherently wastelike pursuant to regulations adopted by the department.

(f) (1) Any person who manages a recyclable material under a claim that the material qualifies for exclusion or exemption pursuant to this section shall provide, upon request, to the department, the Environmental Protection Agency, or any local agency or official authorized to bring an action as provided in Section 25180, all of the following information:

(A) The name, street and mailing address, and telephone number of the owner or operator of any facility that manages the material.

(B) Any other information related to that person's management of the material requested by the department, the Environmental Protection Agency, or the authorized local agency or official.

(2) Any person claiming an exclusion or an exemption shall maintain adequate records to demonstrate to the satisfaction of the requesting agency or official that there is a known market or disposition for the material, and that the requirements of any exemption or exclusion pursuant to this section are met.

(3) For purposes of determining that the conditions for exclusion from classification as a waste pursuant to this section are met, any person, facility, site, or vehicle engaged in the management of a material under a claim that the material is excluded from classification as a waste pursuant to this section shall be subject to Section 25185.

(g) For purposes of Chapter 6.8 (commencing with Section 25300), recyclable materials excluded from classification as a waste pursuant to this section are not excluded from the definition of hazardous substances in subdivision (g) of Section 25316.

(h) Used oil that fails to qualify for exclusion pursuant to subdivision (d) solely because the used oil is a RCRA hazardous waste, may be managed pursuant to subdivision (d) if the used oil is also managed in accordance with Part 260 (commencing with Section 260.1) to Part 270 (commencing with Section 270.1), inclusive, of Subchapter I of Chapter 1 of Title 40 of the Code of Federal Regulations.

SEC. 6. Section 25143.9 of the Health and Safety Code is amended to read:

25143.9. A recyclable material shall not be excluded from classification as a waste pursuant to subdivision (b) or (d) of Section 25143.2, unless all of the following requirements are met:

(a) If the material is held in a container or tank, the container or tank is labeled, marked, and placarded in accordance with the department's hazardous waste labeling, marking, and placarding requirements which are applicable to generators, except that the container or tank shall be labeled or marked clearly with the words "Excluded Recyclable Material" instead of the words "Hazardous Waste," and manifest document numbers are not applicable.

(b) The owner or operator of the business location where the material is located has a business plan that meets the requirements of Section 25504, including, but not limited to, emergency response plans and procedures, as described in subdivision (b) of Section 25504, which specifically address the material or that meet the department's emergency response and contingency requirements which are applicable to generators of hazardous waste.

(c) The material shall be stored and handled in accordance with all local ordinances and codes, including, but not limited to, fire codes, governing the storage and handling of the hazardous material. If a local jurisdiction does not have an ordinance or code regulating the storage of the material, including, but not limited to, an ordinance or code requiring secondary containment for hazardous material storage areas, then the material shall be stored in tanks, waste piles, or containers meeting the department's interim status regulations establishing design standards applicable to tanks, waste piles, or containers storing hazardous waste.

(d) If the material is being exported to a foreign country, the person exporting the material shall do all of the following:

(1) Notify the department, in writing, four weeks before the initial shipment. The notification may cover export activities extending over a 12 month or lesser period and shall include all of the following information:

(A) The generator's name, site address, mailing address, telephone number, Environmental Protection Agency or state identification number, if applicable, contact person, and signature of exporter.

(B) Each transporter's name, address, telephone number, Environmental Protection Agency or state identification number, if applicable, name of contact person, mode of transportation, and

container type used during transport.

(C) A description of the material and, if applicable, United States Department of Transportation proper shipping name, hazard class, and shipping identification number (UN/NA).

(D) The estimated frequency of shipments and total quantity of material to be exported.

(E) All points of departure from the state and intended destinations.

(F) The receiving facility's or facilities' name and address.

(G) A description of the end use of the material, and the basis for the specific exemption provided in Section 25143.2 which is applicable to the material.

(2) For each individual shipment, submit to the department, within 90 days of shipment date, a copy of the waybill, shipping paper, or any document which includes all of the following information specific to that shipment:

(A) The generator's or generators' name and address.

(B) The receiving facility's or facilities' name and address.

(C) The date of shipment.

(D) The type, quantity, and value of the material.

SEC. 6.5. Section 25143.9 of the Health and Safety Code is amended to read:

25143.9. A recyclable material shall not be excluded from classification as a waste pursuant to subdivision (b) or (d) of Section 25143.2, unless all of the following requirements are met:

(a) If the material is held in a container or tank, the container or tank is labeled, marked, and placarded in accordance with the department's hazardous waste labeling, marking, and placarding requirements which are applicable to generators, except that the container or tank shall be labeled or marked clearly with the words "Excluded Recyclable Material" instead of the words "Hazardous Waste," and manifest document numbers are not applicable.

(b) The owner or operator of the business location where the material is located has a business plan that meets the requirements of Section 25504, including, but not limited to, emergency response plans and procedures, as described in subdivision (b) of Section 25504, which specifically address the material or that meet the department's emergency response and contingency requirements which are applicable to generators of hazardous waste.

(c) The material shall be stored and handled in accordance with all local ordinances and codes, including, but not limited to, fire codes, governing the storage and handling of the hazardous material. If a local jurisdiction does not have an ordinance or code regulating the storage of the material, including, but not limited to, an ordinance or code requiring secondary containment for hazardous material storage areas, then the material shall be stored in tanks, waste piles, or containers meeting the department's interim status regulations establishing design standards applicable to tanks, waste piles, or containers storing hazardous waste.

(d) If the material is being exported to a foreign country, the person exporting the material shall meet the requirements of Section 25162.1.

SEC. 7. Section 25174.6 of the Health and Safety Code is amended to read:

25174.6. (a) The fee provided pursuant to Section 25174.1 shall be determined as a percentage of the base rate, as adjusted by the State Board of Equalization, pursuant to Section 25174.2. The percentages of the base rate for determining these fees are as follows:

(1) Twenty-five percent of the base rate for each ton, or fraction thereof for up to the first 5,000 tons of hazardous waste disposed of, or submitted for disposal, in the state at each specific offsite facility by each producer, or at each specific onsite facility, per month, which is not subject to Subchapter III (commencing with Section 6921) of Chapter 82 of Title 42 of the United States Code, pursuant to subsection (b) of Section 6921 of Title 42 of the United States Code and which is not otherwise subject to the fee specified in paragraph (3) or (4), or hazardous waste for which the Administrator of the Environmental Protection Agency has determined that regulation is unwarranted, as specified in subparagraph (C) of paragraph (2) of, and subparagraph (C) of paragraph (3) of, subsection (b) of Section 6921 of Title 42 of the United States Code and which is not otherwise subject to the fee specified in paragraph (3) or (4).

(2) Thirteen percent of the base rate for each ton, or fraction thereof, for up to the first 5,000 tons of hazardous waste disposed of, or submitted for disposal, in the state, at each specific offsite facility by each producer, or at each specific onsite facility, per month, which result from the extraction, beneficiation, and processing of ores and minerals, including phosphate rock and the overburden from the mining of uranium ore and which is not otherwise subject to the fee specified in paragraph (3) or (4).

(3) Two hundred percent of the base rate for each ton, or fraction thereof, of extremely hazardous waste disposed of, or submitted for disposal, in the state.

(4) Two hundred percent of the base rate for each ton, or fraction thereof, of restricted hazardous wastes listed in subdivision (b) of Section 25122.7 disposed of, or submitted for disposal, in the state.

(5) One hundred percent of the base rate for each ton, or fraction thereof, of hazardous waste disposed of, or submitted for disposal, in the state, which is not otherwise subject to the fees specified in paragraph (1), (2), (3), (4), (7), (8), or (9).

(6) The rates specified in this paragraph apply for each ton, or fraction thereof, of hazardous waste generated in this state which is disposed of, or submitted for disposal outside of the state or which is a hazardous waste residual of any treatment which occurs outside of the state other than incineration, dechlorination, or any treatment described in paragraph (7) or (9) and which is disposed of, or submitted for disposal, outside of the state. The rate shall be as follows:

(A) Thirty-five percent of the base rate for the 1989–90 fiscal year.

(B) Forty percent of the base rate for the 1990–91 fiscal year.

(C) Forty-five percent of the base rate after the 1990–91 fiscal year if a new hazardous waste disposal facility is permitted pursuant to Section 25200, or 40 percent of the base rate if no new facility is permitted.

(7) Five percent of the base rate for each ton, or fraction thereof, of hazardous waste disposed of, or submitted for disposal, in the state, that is a solid hazardous waste residue resulting from incineration or dechlorination. No fees shall be imposed pursuant to this paragraph on a solid hazardous waste residue resulting from incineration or dechlorination which is disposed of, or submitted for disposal, outside of the state.

(8) Five percent of the base rate for each ton, or fraction thereof, of hazardous waste disposed of, or submitted for disposal, in the state, that is solid hazardous waste residue resulting from any treatment method which results in free liquid removal, removal of volatile organic constituents, and a minimum waste volume reduction of 50 percent, and which has been approved by the department pursuant to Section 25179.6.

(9) The rates specified in this paragraph apply for each ton, or fraction thereof, of hazardous waste disposed of, or submitted for disposal, outside of the state, that is solid hazardous waste residue resulting from any treatment method which results in free liquid removal, removal of volatile organic constituents, and a minimum waste volume reduction of 50 percent, and which has been approved by the department pursuant to Section 25179.6. The rate shall be as follows:

(A) Twenty-two and one-half percent of the base rate for the 1990–91 fiscal year.

(B) Twenty-five percent of the base rate after the 1990–91 fiscal year if a new hazardous waste disposal facility is permitted pursuant to Section 25200, or 22½ percent of the base rate if no new facility is permitted.

(b) The amount of fees payable to the State Board of Equalization pursuant to this section shall be calculated using the total wet weight, measured in tons or fractions thereof, of the hazardous waste in the form in which the hazardous waste existed at the time of disposal, submission for disposal, or application to land using the land disposal methods defined in Section 66122 of Title 22 of the California Code of Regulations.

(c) All fees imposed by this section shall be paid in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code.

SEC. 7.5. Section 25174.6 of the Health and Safety Code is amended to read:

25174.6. (a) The fee provided pursuant to Section 25174.1 shall be determined as a percentage of the base rate, as adjusted by the State Board of Equalization, pursuant to Section 25174.2. The

percentages of the base rate for determining these fees are as follows:

(1) Twenty-five percent of the base rate for each ton, or fraction thereof for up to the first 5,000 tons of hazardous waste disposed of, or submitted for disposal, in the state at each specific offsite facility by each producer, or at each specific onsite facility, per month, which is not subject to Subchapter III (commencing with Section 6921) of Chapter 82 of Title 42 of the United States Code, pursuant to subsection (b) of Section 6921 of Title 42 of the United States Code and which is not otherwise subject to the fee specified in paragraph (3) or (4), or hazardous waste for which the Administrator of the Environmental Protection Agency has determined that regulation is unwarranted, as specified in subparagraph (C) of paragraph (2) of, and subparagraph (C) of paragraph (3) of, subsection (b) of Section 6921 of Title 42 of the United States Code and which is not otherwise subject to the fee specified in paragraph (3) or (4).

(2) Thirteen percent of the base rate for each ton, or fraction thereof, for up to the first 5,000 tons of hazardous waste disposed of, or submitted for disposal, in the state, at each specific offsite facility by each producer, or at each specific onsite facility, per month, which result from the extraction, beneficiation, and processing of ores and minerals, including phosphate rock and the overburden from the mining of uranium ore and which is not otherwise subject to the fee specified in paragraph (3) or (4).

(3) Two hundred percent of the base rate for each ton, or fraction thereof, of extremely hazardous waste disposed of, or submitted for disposal, in the state.

(4) Two hundred percent of the base rate for each ton, or fraction thereof, of restricted hazardous wastes listed in subdivision (b) of Section 25122.7 disposed of, or submitted for disposal, in the state.

(5) One hundred percent of the base rate for each ton, or fraction thereof, of hazardous waste disposed of, or submitted for disposal, in the state, which is not otherwise subject to the fees specified in paragraph (1), (2), (3), (4), or (7).

(6) The rates specified in this paragraph apply for each ton, or fraction thereof, of hazardous waste generated in this state which is disposed of, or submitted for disposal outside of the state or which is a hazardous waste residual of any treatment which occurs outside of the state other than incineration, dechlorination, or any treatment described in paragraph (7) and which is disposed of, or submitted for disposal, outside of the state. The rate shall be as follows:

(A) Thirty-five percent of the base rate for the 1989–90 fiscal year.

(B) Forty percent of the base rate for the 1990–91 fiscal year.

(C) Forty-five percent of the base rate after the 1990–91 fiscal year if a new hazardous waste disposal facility is permitted pursuant to Section 25200, or 40 percent of the base rate if no new facility is permitted.

(7) Five percent of the base rate for each ton, or fraction thereof, of hazardous waste disposed of, or submitted for disposal, in the state, that is a solid hazardous waste residue resulting from incineration or

dechlorination. No fees shall be imposed pursuant to this paragraph on a solid hazardous waste residue resulting from incineration or dechlorination which is disposed of, or submitted for disposal, outside of the state.

(b) The amount of fees payable to the State Board of Equalization pursuant to this section shall be calculated using the total wet weight, measured in tons or fractions thereof, of the hazardous waste in the form in which the hazardous waste existed at the time of disposal, submission for disposal, or application to land using the land disposal methods defined in Section 66122 of Title 22 of the California Code of Regulations.

(c) All fees imposed by this section shall be paid in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code.

SEC. 8. Section 25179.6 of the Health and Safety Code is amended to read:

25179.6. (a) (1) Notwithstanding any other provision of law, any hazardous waste restricted from land disposal by the federal act, or by the Environmental Protection Agency pursuant to the federal act, is prohibited from land disposal in the state, unless the hazardous waste, or the producer of the hazardous waste is granted a variance, extension, exclusion, or exemption by the Administrator of the Environmental Protection Agency or the waste is treated in accordance with an applicable treatment standard.

(2) Except as provided in Sections 25179.7, 25179.8, 25179.9, 25179.10, 25179.11, and 25179.12, on or before May 8, 1990, the department shall prohibit the land disposal of any hazardous waste after the effective date of the department's action, unless the waste meets one of the following conditions:

(A) It is a treated hazardous waste.

(B) It is a solid hazardous waste generated in the cleanup or decontamination of any site contaminated only by hazardous waste which has not been restricted or prohibited by Section 3004 of the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. Sec. 6924) or prohibited by the Environmental Protection Agency pursuant to that section, and which does not meet the treatment standards established by the department pursuant to this section, if the department or other federal, state, or local agency with authority to approve the cleanup or decontamination has approved the disposal of the waste after considering those factors specified in subdivision (c) of Section 25356.1, regardless of whether a remedial action plan has been, or will be, prepared for the cleanup or decontamination.

(b) Notwithstanding subdivision (d), any treatment standard adopted or amended by the Environmental Protection Agency pursuant to subsection (m) of Section 3004 of the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. Sec. 6924(m)), for a hazardous waste prohibited from land disposal pursuant to paragraph (1) of subdivision (a) is the minimum

treatment standard required to be met before the hazardous waste may be disposed of, using land disposal, in the state. Any such treatment standard adopted or amended by the Environmental Protection Agency shall become effective in the state upon the effective date of that adoption or amendment, as specified in the final rule published in the Federal Register. The department shall not grant an extension, variance, or exemption from the treatment standard, unless the Administrator of the Environmental Protection Agency grants an equivalent or less stringent extension, variance, or exemption.

(1) As closely as possible with, but not later than six months following the dates specified in, the schedules required by subsection (g) of Section 6924 of Title 42 of the United States Code, the department shall adopt regulations restricting the land disposal of any hazardous waste which is listed pursuant to Section 25140 or meets the criteria adopted by the department pursuant to Section 25141, and treatment standards specifying a method or methods of treatment, and the associated performance level, or the level of treatment required prior to the land disposal of each hazardous waste.

(2) If the department specifies a method or methods of treatment and an associated performance level, unless the hazardous waste is subject to subdivision (a) of Section 25155.5, any person may use an alternative treatment method if the person demonstrates both of the following to the satisfaction of the department:

(A) The alternative treatment method will result in a level of performance substantially equivalent or greater than that achievable using the method or methods specified by the department.

(B) If the hazardous waste is subject to treatment standards in the form of a treatment method or specified technology established by the Environmental Protection Agency pursuant to subsection (m) of Section 3004 of the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. Sec. 6924(m)), the Administrator of the Environmental Protection Agency has approved the use of the alternative treatment method.

(3) The treatment standards adopted pursuant to paragraph (1) shall be designed to minimize the hazardous characteristics of the waste and minimize the potential for bioaccumulation or migration of hazardous constituents from the waste into the air, land, and water resources of the state. In adopting these standards, the department shall consider applicable federal standards adopted by the Environmental Protection Agency to the extent that the federal treatment standards minimize the hazardous characteristics of the waste and the potential for bioaccumulation or migration of hazardous constituents. The department shall adopt treatment standards for any hazardous waste for which a federal treatment standard does not minimize the hazardous characteristics of the waste and the potential for bioaccumulation or migration of hazardous constituents.

(4) For the purposes of this subdivision, the following apply:

(A) "Minimization of hazardous characteristics and the potential for bioaccumulation or migration" means that level of treatment which is achievable using the best demonstrated available technology.

(B) "Best demonstrated available technology" means a method of treatment which is available, or can be made available in a reasonable time, on a commercial scale and the performance of which has been demonstrated through reliable test data and project development sufficient in scope to ensure consistent results and standardized applicability.

(c) Regulations establishing treatment standards adopted by the department pursuant to this section shall be deemed a necessity for purposes of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and the Office of Administrative Law shall not disapprove the regulations on the grounds that they do not meet the requirements of paragraph (1) of subdivision (a) of Section 11349.1 of the Government Code.

(d) At least every seven years from the date of adoption of regulations pursuant to subdivision (b), the department shall review each treatment standard and shall revise the treatment standard if the revised treatment standard will provide substantial additional protection to human health and the environment and the department finds that the cost of compliance to those industries which are required to replace or retrofit existing hazardous waste treatment units or processes is necessary to protect human health and the environment.

A revised treatment standard adopted pursuant to this subdivision shall be applicable to any hazardous waste treatment unit or process constructed after the revised treatment standard is adopted. The land disposal of hazardous waste treated in an existing treatment unit or process which does not provide a level of performance equivalent to the revised treatment standard shall not be prohibited by the department until two years following the adoption of the revised treatment standard, by which time the existing treatment unit or process shall be replaced or retrofitted to provide a level of performance equivalent to the revised treatment standard. The department may, on a case by case basis, extend the date by which an existing treatment unit or process shall be replaced or retrofitted, but not more than 10 additional years, if an extension is needed to avoid significant economic disruption to a specific firm or hazardous waste treatment facility.

SEC. 9. Section 25187.2 of the Health and Safety Code is amended to read:

25187.2. If a removal or remedial action order issued pursuant to Section 25187 to a potentially responsible party requires a person to take corrective action with respect to hazardous waste, that person shall pay the applicable fees specified in Section 25343 for oversight of the removal or remedial action. However, notwithstanding

subdivision (a) of Section 25343, any fees collected pursuant to this section shall be deposited in the Hazardous Waste Control Account, unless the person is required to take the same removal or remedial action pursuant to Section 25355.5 or an order issued pursuant to subdivision (a) of Section 25358.3. This section does not prohibit the department from assessing any other penalty or recovering any costs for oversight of a removal or remedial action, pursuant to any other provision, except that any fees paid pursuant to this section shall be credited for those costs. Nothing in this section limits the due process requirements of Section 25187.

SEC. 10. Section 25202 of the Health and Safety Code is amended to read:

25202. (a) The owner or operator of a hazardous waste facility who holds a hazardous waste facilities permit or a grant of interim status shall comply with the conditions of the hazardous waste facilities permit or interim status document, the requirements of this chapter, and with the regulations adopted by the department pursuant to this chapter, including regulations which become effective after the issuance of the permit or grant of interim status.

Notwithstanding any term or condition in a hazardous waste facilities permit or interim status document, the department may adopt or amend regulations which impose additional or more stringent requirements than those existing at the time the permit or interim status document was issued. The department may enforce both the permit or interim status document and additional or more stringent requirements against the owner or operator of a facility.

(b) The amendment of this section made at the 1989 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the existing law.

(c) The amendment of this section made at the 1991–92 Regular Session does not constitute a change in, but is declaratory of, the existing law.

SEC. 11. Section 25343 of the Health and Safety Code is amended to read:

25343. (a) The board shall assess a fee upon a potentially responsible party for the costs incurred by the department in connection with the oversight of any removal or remedial action taken by that party pursuant to Section 25355.5 or any action taken by that party pursuant to an order issued pursuant to subdivision (a) of Section 25358.3. The fee is in addition to the costs incurred for the removal or remediation which are not oversight costs, and shall be recovered pursuant to Section 25360. The fees shall be collected in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code, and deposited into the state account.

(b) A potentially responsible party shall pay the fee imposed pursuant to this section prior to the commencement of the action for which the oversight occurs. The amounts of the fee specified in this section are base rates for the 1989–90 fiscal year. Thereafter, the

board shall adjust the fee annually to reflect increases or decreases in the cost of living, as measured by the Consumer Price Index issued by the Department of Labor or a successor agency of the United States government.

(c) A potentially responsible party shall pay a fee of five thousand dollars ($5,000) to pay for the costs of those actions deemed necessary by the department to accurately estimate the size and complexity of a hazardous substance release site to establish the fee imposed pursuant to subdivisions (d) to (j), inclusive.

(d) A potentially responsible party shall pay a fee for a preliminary endangerment assessment of seven thousand five hundred dollars ($7,500).

(e) A potentially responsible party shall pay a fee for oversight of a removal action of fourteen thousand five hundred dollars ($14,500) for a small removal action, thirty-seven thousand dollars ($37,000) for a medium removal action, seventy-three thousand five hundred dollars ($73,500) for a large removal action, and one hundred forty-seven thousand dollars ($147,000) for an extra-large removal action.

(f) A potentially responsible party shall pay a fee for oversight of a remedial investigation and a feasibility study of twenty-one thousand five hundred dollars ($21,500) for a small site, forty-three thousand dollars ($43,000) for a medium site, eighty-five thousand five hundred dollars ($85,500) for a large site, and two hundred thousand dollars ($200,000) for an extra-large site.

(g) A potentially responsible party shall pay a fee for oversight of a remedial action plan of four thousand five hundred dollars ($4,500) for a small site, nine thousand dollars ($9,000) for a medium site, eighteen thousand dollars ($18,000) for a large site, and thirty-eight thousand dollars ($38,000) for an extra-large site.

(h) A potentially responsible party shall pay a fee for oversight of a remedial design of seven thousand five hundred dollars ($7,500) for a small site, fourteen thousand five hundred dollars ($14,500) for a medium site, twenty-nine thousand dollars ($29,000) for a large site, and eighty thousand dollars ($80,000) for an extra-large site.

(i) A potentially responsible party shall pay a fee for the oversight of a final remedial action of ten thousand dollars ($10,000) for a small site, twenty thousand dollars ($20,000) for a medium site, forty thousand dollars ($40,000) for a large site, and one hundred six thousand dollars ($106,000) for an extra-large site.

(j) A potentially responsible party shall pay a fee per year for oversight and monitoring of ongoing operation and maintenance activities of six thousand dollars ($6,000) for a small operation and maintenance activity, twelve thousand dollars ($12,000) for a medium operation and maintenance activity, twenty-four thousand dollars ($24,000) for a large operation and maintenance activity, and thirty-four thousand dollars ($34,000) for an extra-large operation and maintenance activity.

(k) (1) Fees for any oversight activity being performed on July

1, 1989, or any subsequent date, shall be assessed pursuant to this section and Section 25344, even if the activity began prior to July 1, 1989. If the activity began prior to July 1, 1989, the fees shall be payable on or before November 29, 1989. This section shall not apply to activities for which work has been completed prior to July 1, 1989.

(2) If there is a conflict between this subdivision and Section 25344 and the provisions of any agreement entered into pursuant to subparagraph (C) of paragraph (1) of subdivision (a) of Section 25355.5 prior to September 29, 1989, the agreement shall prevail, unless the agreement is modified as allowed by its terms or by mutual consent of all parties.

(3) Any order or agreement entered into for removal or remedial action may be modified by consent of all parties to assess the fees listed in this section in place of any provisions for charges or cost recovery contained in the order of agreement.

(*l*) Notwithstanding this section, a potentially responsible party shall pay the board a fee equal to the actual costs of the department's costs of oversight, in advance of the oversight for removal or remedial activities which is done, pursuant to an agreement, if the site is not listed pursuant to Section 25356, except the potentially responsible party is not required to pay for the costs of any activities necessary and incidental to entering the agreement, which shall be reimbursed pursuant to the agreement.

(m) (1) The department may reclassify a site as to size, as warranted by new information specified in this section, but this reclassification shall not occur any later than 120 days after the completion of an activity for which the department proposes to charge a revised fee pursuant to this section based on the site size reclassification.

(2) If a site may be classified as two sizes pursuant to Sections 25313.5, 25317.5, 25318, and 25326.6, it shall be classified as the larger of those sizes.

(n) Notwithstanding this section, the department may waive the fees imposed by this section for any hazardous substance release site owned and operated by an agency of the federal government, if the department has entered into an agreement with that agency for the payment of fees in an amount different from the amounts specified in this section.

SEC. 12. Section 5.5 of this bill incorporates amendments to Section 25143.2 of the Health and Safety Code proposed by both this bill and AB 1899. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 25143.2 of the Health and Safety Code, and (3) this bill is enacted after AB 1899, in which case Section 5 of this bill shall not become operative.

SEC. 13. Section 6.5 of this bill incorporates amendments to Section 25143.9 of the Health and Safety Code proposed by both this bill and AB 1899. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill

amends Section 25143.9 of the Health and Safety Code, and (3) this bill is enacted after AB 1899, in which case Section 6 of this bill shall not become operative.

SEC. 14. Section 7.5 of this bill incorporates amendments to Section 25174.6 of the Health and Safety Code proposed by both this bill and AB 1991. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 25174.6 of the Health and Safety Code, and (3) this bill is enacted after AB 1991, in which case Section 7 of this bill shall not become operative.

SEC. 15. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1127

An act to amend, repeal, and add Section 25174.6 of the Health and Safety Code, relating to hazardous waste, and making an appropriation therefor.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 25174.6 of the Health and Safety Code is amended to read:

25174.6. (a) The fee provided pursuant to Section 25174.1 shall be determined as a percentage of the base rate, as adjusted by the State Board of Equalization, pursuant to Section 25174.2. The percentages of the base rate for determining these fees are as follows:

(1) Twenty-five percent of the base rate for each ton, or fraction thereof for up to the first 5,000 tons of hazardous waste disposed of, or submitted for disposal, in the state at each specific offsite facility by each producer, or at each specific onsite facility, per month, which is not subject to Subchapter III (commencing with Section 6921) of Chapter 82 of Title 42 of the United States Code, pursuant to subsection (b) of Section 6921 of Title 42 of the United States Code and which is not otherwise subject to the fee specified in paragraph (3) or (4), or hazardous waste for which the Administrator of the Environmental Protection Agency has determined that regulation is

unwarranted, as specified in subparagraph (C) of paragraph (2) of, and subparagraph (C) of paragraph (3) of, subsection (b) of Section 6921 of Title 42 of the United States Code and which is not otherwise subject to the fee specified in paragraph (3) or (4).

(2) Thirteen percent of the base rate for each ton, or fraction thereof, for up to the first 5,000 tons of hazardous waste disposed of, or submitted for disposal, in the state, at each specific offsite facility by each producer, or at each specific onsite facility, per month, which result from the extraction, beneficiation, and processing of ores and minerals, including phosphate rock and the overburden from the mining of uranium ore and which is not otherwise subject to the fee specified in paragraph (3) or (4).

(3) Two hundred percent of the base rate for each ton, or fraction thereof, of extremely hazardous waste disposed of, or submitted for disposal, in the state.

(4) Two hundred percent of the base rate for each ton, or fraction thereof, of restricted hazardous wastes listed in subdivision (b) of Section 25122.7 disposed of, or submitted for disposal, in the state.

(5) One hundred percent of the base rate for each ton, or fraction thereof, of hazardous waste disposed of, or submitted for disposal, in the state, which is not otherwise subject to the fees specified in paragraph (1), (2), (3), (4), (7), (8), or (9).

(6) The rates specified in this paragraph apply for each ton, or fraction thereof, of hazardous waste generated in this state which is disposed of, or submitted for disposal outside of the state or which is a hazardous waste residual of any treatment which occurs outside of the state other than incineration, dechlorination, or any treatment described in paragraph (7) or (9) and which is disposed of, or submitted for disposal, outside of the state. The rate shall be as follows:

(A) Thirty-five percent of the base rate for the 1989–90 fiscal year.

(B) Forty percent of the base rate for the 1990–91 fiscal year.

(C) Forty-five percent of the base rate after the 1990–91 fiscal year if a new hazardous waste disposal facility is permitted pursuant to Section 25200, or 40 percent of the base rate if no new facility is permitted.

(7) Five percent of the base rate for each ton, or fraction thereof, of hazardous waste disposed of, or submitted for disposal, in the state, that is a solid hazardous waste residue resulting from incineration or dechlorination. No fees shall be imposed pursuant to this paragraph on a solid hazardous waste residue resulting from incineration or dechlorination which is disposed of, or submitted for disposal, outside of the state.

(8) Five percent of the base rate for each ton, or fraction thereof, of hazardous waste disposed of, or submitted for disposal, in the state, that is solid hazardous waste residue resulting from any treatment method which results in free liquid removal, removal of volatile organic constituents, and a minimum waste volume reduction of 50 percent, and which has been approved by the department pursuant

to Section 25179.6.

(9) The rates specified in this paragraph apply for each ton, or fraction thereof, of hazardous waste disposed of, or submitted for disposal, outside of the state, that is solid hazardous waste residue resulting from any treatment method which results in free liquid removal, removal of volatile organic constituents, and a minimum waste volume reduction of 50 percent, and which has been approved by the department pursuant to Section 25179.6. The rate shall be as follows:

(A) Twenty-two and one-half percent of the base rate for the 1990–91 fiscal year.

(B) Twenty-five percent of the base rate after the 1990–91 fiscal year if a new hazardous waste disposal facility is permitted pursuant to Section 25200, or 22½ percent of the base rate if no new facility is permitted.

(b) The amount of fees payable to the State Board of Equalization pursuant to this section shall be calculated using the total wet weight, measured in tons or fractions thereof, of the hazardous waste in the form in which the hazardous waste existed at the time of disposal, submission for disposal, or application to land using the land disposal methods defined in Section 66122 of Title 22 of the California Code of Regulations.

(c) All fees imposed by this section shall be paid in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code.

(d) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1993, deletes or extends that date.

SEC. 2. Section 25174.6 is added to the Health and Safety Code, to read:

25174.6. (a) The fee provided pursuant to Section 25174.1 shall be determined as a percentage of the base rate, as adjusted by the State Board of Equalization, pursuant to Section 25174.2. The percentages of the base rate for determining these fees are as follows:

(1) Twenty-five percent of the base rate for each ton, or fraction thereof for up to the first 5,000 tons of hazardous waste disposed of, or submitted for disposal, in the state at each specific offsite facility by each producer, or at each specific onsite facility, per month, which is not subject to Subchapter III (commencing with Section 6921) of Chapter 82 of Title 42 of the United States Code, pursuant to subsection (b) of Section 6921 of Title 42 of the United States Code and which is not otherwise subject to the fee specified in paragraph (3) or (4), or hazardous waste for which the Administrator of the Environmental Protection Agency has determined that regulation is unwarranted, as specified in subparagraph (C) of paragraph (2) of, and subparagraph (C) of paragraph (3) of, subsection (b) of Section 6921 of Title 42 of the United States Code and which is not otherwise subject to the fee specified in paragraph (3) or (4).

(2) Thirteen percent of the base rate for each ton, or fraction

thereof, for up to the first 5,000 tons of hazardous waste disposed of, or submitted for disposal, in the state, at each specific offsite facility by each producer, or at each specific onsite facility, per month, which result from the extraction, beneficiation, and processing of ores and minerals, including phosphate rock and the overburden from the mining of uranium ore and which is not otherwise subject to the fee specified in paragraph (3) or (4).

(3) Two hundred percent of the base rate for each ton, or fraction thereof, of extremely hazardous waste disposed of, or submitted for disposal, in the state.

(4) Two hundred percent of the base rate for each ton, or fraction thereof, of restricted hazardous wastes listed in subdivision (b) of Section 25122.7 disposed of, or submitted for disposal, in the state.

(5) One hundred percent of the base rate for each ton, or fraction thereof, of hazardous waste disposed of, or submitted for disposal, in the state, which is not otherwise subject to the fees specified in paragraph (1), (2), (3), (4), or (7).

(6) The rates specified in this paragraph apply for each ton, or fraction thereof, of hazardous waste generated in this state which is disposed of, or submitted for disposal outside of the state or which is a hazardous waste residual of any treatment which occurs outside of the state other than incineration, dechlorination, or any treatment described in paragraph (7) and which is disposed of, or submitted for disposal, outside of the state. The rate shall be as follows:

(A) Thirty-five percent of the base rate for the 1989–90 fiscal year.

(B) Forty percent of the base rate for the 1990–91 fiscal year.

(C) Forty-five percent of the base rate after the 1990–91 fiscal year if a new hazardous waste disposal facility is permitted pursuant to Section 25200, or 40 percent of the base rate if no new facility is permitted.

(7) Five percent of the base rate for each ton, or fraction thereof, of hazardous waste disposed of, or submitted for disposal, in the state, that is a solid hazardous waste residue resulting from incineration or dechlorination. No fees shall be imposed pursuant to this paragraph on a solid hazardous waste residue resulting from incineration or dechlorination which is disposed of, or submitted for disposal, outside of the state.

(b) The amount of fees payable to the State Board of Equalization pursuant to this section shall be calculated using the total wet weight, measured in tons or fractions thereof, of the hazardous waste in the form in which the hazardous waste existed at the time of disposal, submission for disposal, or application to land using the land disposal methods defined in Section 66122 of Title 22 of the California Code of Regulations.

(c) All fees imposed by this section shall be paid in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code.

(d) This section shall become operative on January 1, 1993.

SEC. 3. No reimbursement is required by this act pursuant to

Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1128

An act to amend Sections 25270.2, 25270.3, 25270.5, 25270.6, 25270.7, 25270.8, 25503.7, 25514.5, and 25533 of the Health and Safety Code, and to amend Section 4 of Chapter 1383 of the Statutes of 1989, relating to the environment.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 25270.2 of the Health and Safety Code is amended to read:

25270.2. For purposes of this chapter, the following definitions apply:

(a) "Board" means the State Water Resources Control Board.

(b) "Fund" means the Environmental Protection Trust Fund established pursuant to Section 25270.11.

(c) "Operator" means the person responsible for the overall operation of a tank facility.

(d) "Owner" means the person who owns the tank facility or part of the tank facility.

(e) "Person" means an individual, trust, firm, joint stock company, corporation, including a government corporation, partnership, or association. "Person" also includes any city, county, district, the University of California, the California State University, the state, any department or agency thereof, and the United States, to the extent authorized by federal law.

(f) "Petroleum" means crude oil, or any fraction thereof, which is liquid at 60 degrees Fahrenheit temperature and 14.7 pounds per square inch absolute pressure.

(g) "Regional board" means a California regional water quality control board.

(h) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, escaping, leaching, or disposing into the environment.

(i) "Storage" or "store" means the containment, handling, or

treatment of petroleum, for any period of time, including on a temporary basis.

(j) "Storage tank" means any aboveground tank or container used for the storage of petroleum. "Storage tank" does not include any of the following:

(1) A pressure vessel or boiler which is subject to Part 6 (commencing with Section 7620) of Division 5 of the Labor Code.

(2) A storage tank containing hazardous waste, as defined in subdivision (g) of Section 25316, if the person owning or operating the storage tank has been issued a hazardous waste facilities permit for the storage tank by the department.

(3) An aboveground oil production tank which is subject to Section 3106 of the Public Resources Code.

(k) "Tank facility" means any one, or combination of, aboveground storage tanks, including any piping which is integral to the tank, which contains petroleum and which is used by a single business entity at a single location or site. For purposes of this chapter, a pipe is integrally related to an aboveground storage tank if the pipe is connected to the tank and meets any of the following:

(1) The pipe is within the dike or containment area.

(2) The pipe is between the containment area and the first flange or valve outside the containment area.

(3) The pipe is connected to the first flange or valve on the exterior of the tank, if state or federal law does not require a containment area.

SEC. 2. Section 25270.3 of the Health and Safety Code is amended to read:

25270.3. (a) Except as provided in subdivision (b), a tank facility is subject to this chapter if either of the following conditions apply:

(1) The tank facility is subject to the oil pollution prevention regulations specified in Part 112 (commencing with Section 112.1) of Subchapter D of Chapter I of Title 40 of the Code of Federal Regulations.

(2) (A) The tank facility has a storage capacity of 10,000 gallons or more of petroleum.

(B) Notwithstanding subparagraph (A), a tank facility located on a farm, nursery, logging site, or construction site is not subject to the requirements of subdivision (c) of Section 25270.5 if no storage tank at the location exceeds 20,000 gallons and the cumulative storage capacity of the tank facility does not exceed 100,000 gallons.

(b) This chapter does not apply to any tank facility, or portion of a tank facility, subject to Section 3106 of the Public Resources Code.

SEC. 3. Section 25270.5 of the Health and Safety Code is amended to read:

25270.5. (a) By January 1, 1991, the board shall adopt a schedule for the inspection of tank facilities subject to this chapter. In adopting this schedule, the board shall give special attention to those tank facilities which are near navigable waters, potable water supplies, or sensitive ecosystems, such as wetlands and marshes.

(b) Each regional board shall conduct periodic inspections of either each storage tank or a representative sampling of the storage tanks at each tank facility in accordance with the schedule determined by the board pursuant to subdivision (a) for compliance with the spill prevention and countermeasure plan.

(c) Except as provided in subparagraph (B) of paragraph (2) of subdivision (a) of Section 25270.3, each owner or operator of a storage tank at a tank facility subject to this chapter shall, by January 1, 1991, prepare a spill prevention control and countermeasure plan prepared in accordance with the guidelines contained in Part 112 of Title 40 of the Code of Federal Regulations. Each owner or operator specified in this subdivision shall conduct periodic inspections of the storage tanks to assure compliance with Section 112.7 of Title 40 of the Code of Federal Regulations. In implementing the spill prevention control and countermeasure plan, each owner or operator specified in this subdivision shall fully comply with the latest version of the regulations contained in Part 112 of Title 40 of the Code of Federal Regulations.

(d) The owner or operator of a tank facility specified in subparagraph (B) of paragraph (2) of subdivision (a) of Section 25270.3 shall take all of the following actions:

(1) Conduct daily visual inspections of any tank storing petroleum.

(2) Allow the regional board to conduct periodic inspections of the tank facility.

(3) Install a secondary means of containment for the entire contents of the largest tank at the tank facility, plus sufficient space for precipitation, if the regional board determines this installation is necessary for the protection of the waters of the state.

SEC. 4. Section 25270.6 of the Health and Safety Code is amended to read:

25270.6. (a) On or before July 1, 1990, and on or before July 1 of every two years thereafter, each owner or operator of a tank facility subject to this chapter shall file with the board a storage statement which shall identify the name and address of the tank facility, a contact person for the tank facility, the total storage capacity of the tank facility, and the location, size, age, and contents of each tank that exceeds 10,000 gallons in capacity and which holds a substance containing at least 5 percent of petroleum. A copy of a statement submitted previously pursuant to this section may be submitted in lieu of a new storage statement if no new or used storage tanks have been added to the facility or if no significant modifications have been made. For purposes of this section, a significant modification includes, but is not limited to, altering existing storage tanks or changing spill prevention or containment methods.

(b) Each storage statement submitted pursuant to subdivision (a) shall be accompanied by a fee in accordance with the following schedule:

Total Tank Facility Storage Capacity	Per Facility Fee
Less than 10,000 gallons	$ 100
10,000–100,000 gallons	200
100,001–1,000,000 gallons	400
1,000,001–10,000,000 gallons	1,600
10,000,001–100,000,000 gallons	8,000
100,000,001 or more gallons	30,000

(c) The fees collected pursuant to this section shall be deposited in the fund until the total sum in the fund equals seven million five hundred thousand dollars ($7,500,000) in any one year.

If fees in excess of seven million five hundred thousand dollars ($7,500,000) are collected by the board, a pro rata share of the excess shall be returned to the owners or operators who paid the fee, or at the option of the owner or operator, credited to their account for a subsequent year. Expenses recovered pursuant to Section 25270.9, and penalties collected pursuant to Section 25270.12, shall not be available for return or credit to owners or operators pursuant to this subdivision. The board shall annually revise the sum of seven million five hundred thousand dollars ($7,500,000) to reflect the change in the cost of living in the state.

SEC. 5. Section 25270.7 of the Health and Safety Code is amended to read:

25270.7. (a) Except as provided in subdivision (e), the owner or operator of a tank facility which meets the requirements of subdivision (b) or (c) shall establish and maintain a monitoring program pursuant to subdivision (b) or (c), as applicable, which shall be approved by the regional board, to detect releases to the soil and water, including both groundwater and surface water. The owner or operator shall establish the required monitoring program in accordance with the requirements and a schedule prescribed by the regional board. However, if the regional board requires a monitoring program, the program shall be implemented as soon as feasible, but not later than 360 days from the date of notification by the regional board that a monitoring program is required. The owner or operator subject to this section shall designate a schedule for monitoring and the sample locations, which shall be approved by the regional board. The owner or operator shall make the monitoring results available to the regional board and the Department of Fish and Game.

(b) Each owner or operator of a tank facility subject to this chapter which, because of the tank location, tank size, characteristics of the petroleum being stored or the spill containment system, has the potential to impact surface waters or sensitive ecosystems, as determined by the regional board, shall do either of the following:

(1) Install and maintain a system, approved by the regional board, to detect releases into surface waters or sensitive ecosystems.

(2) If any discharge from a tank facility flows, or would reasonably be expected to flow, to surface waters or a sensitive ecosystem, allow a drainage valve to be opened and remain open only during the presence of an individual who visually observes the discharge.

(c) Each owner or operator of a tank facility subject to this chapter which, because of the tank facility location, tank size, or characteristics of the petroleum being stored (16 degrees API or lighter), has the potential to impact the beneficial uses of the groundwater, as determined by the regional board, and which is not required to have a groundwater monitoring program at the tank facility pursuant to any other federal, state, or local law, shall do any of the following:

(1) Install a tank facility groundwater monitoring system which will detect releases of petroleum into the groundwater, as approved by the regional board.

(2) Install and maintain a tank foundation design which will provide for early detection of releases of petroleum before reaching the groundwater, as approved by the regional board.

(3) Implement a tank water bottom monitoring system and maintain a schedule which includes a log or other record which will identify or indicate releases of petroleum before reaching the groundwater, as approved by the regional board.

(4) Use other methods which will detect releases of petroleum into or before reaching the groundwater, as approved by the regional board.

(d) Tank owners or operators shall report all positive findings from the detection systems required by subdivision (c) to the appropriate regional board within 72 hours after learning of the finding.

(e) This section does not apply to any tank whose exterior surface, including connecting piping, and the floor directly beneath the tank, can be monitored by direct viewing.

SEC. 6. Section 25270.8 of the Health and Safety Code is amended to read:

25270.8. Each owner or operator of a tank facility shall immediately, upon discovery, notify the county and the city, if any, in which the tank facility is located, of occurrence of a spill or other release of one barrel (42 gallons) or more of petroleum which is required to be reported to the Office of Emergency Services pursuant to subdivision (g) of Section 13272 of the Water Code.

SEC. 7. Section 25503.7 of the Health and Safety Code is amended to read:

25503.7. (a) When any hazardous material contained in any rail car, rail tank car, rail freight container, marine vessel, or marine freight container remains within the same railroad facility, marine facility, or business facility for more than 30 days, or a business knows or has reason to know that any rail car, rail tank car, rail freight container, marine vessel, or marine freight container containing any hazardous material will remain at the same railroad facility, marine

facility, or business facility for more than 30 days, the hazardous material is deemed stored at that location for purposes of this chapter and subject to the requirements of this chapter.

(b) Subdivision (a) does not apply to a marine vessel while under construction, repair, modernization, or retrofitting while located in a ship repair facility.

(c) Notwithstanding Section 25510, a business handling hazardous materials which are stored in a manner subject to subdivision (a) shall immediately notify the administering agency whenever a hazardous material is stored in a rail car, rail tank car, rail freight container, marine vessel, or marine freight container.

SEC. 8. Section 25514.5 of the Health and Safety Code is amended to read:

25514.5. (a) Notwithstanding Section 25514, any business which violates this article is civilly liable to an administering agency for an administrative civil penalty, in an amount which shall be set by the governing body of the administering agency, but not greater than two thousand dollars ($2,000) for each day in which the violation occurs. If the violation results in, or significantly contributes to, an emergency, including a fire or health or medical problem requiring toxicological, health, or medical consultation, the business shall also be assessed the full cost of the county, city, fire district, local EMS agency designated pursuant to Section 1797.200, or poison control center as defined by Section 1797.97, emergency response, as well as the cost of cleaning up and disposing of the hazardous materials, or acutely hazardous materials.

(b) Notwithstanding Section 25514, any business that knowingly violates this article after reasonable notice of the violation is civilly liable for an administrative penalty, in an amount which shall be set by the governing body of the administering agency, but not greater than five thousand dollars ($5,000) for each day in which the violation occurs.

(c) An administering agency shall collect the penalty imposed by this section pursuant to Section 25514.6.

(d) A penalty shall not be recoverable pursuant to this section and Section 25514 for the same violation.

(e) The purpose of this section and Section 25514.6 is to provide local agencies with an alternative and effective means of enforcing public laws on the handling of hazardous materials and acutely hazardous materials.

(f) In assessing the civil penalty, the administering agency shall consider the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, the frequency of past violations, any action taken to mitigate the violation, and the financial burden to the violator.

(g) In all civil penalties collected pursuant to this section, the amount of two hundred dollars ($200) shall first be deducted from the amount of the penalty. This two hundred dollars ($200) shall be deposited in the Hazardous Material and Waste Enforcement

Training Account established by Section 25515.2 and shall be available for expenditure pursuant to subdivision (d) of Section 25515.2.

(h) Notwithstanding Section 25515.2, after payment of the two hundred dollars ($200) to the Hazardous Material and Waste Enforcement Training Account, all penalties collected pursuant to this section shall be apportioned in the following manner:

(1) Seventy-five percent to the administering agency which shall reimburse the county, city, fire district, local EMS agency, as designated pursuant to Section 1797.200 or the poison control center, as defined by Section 1797.97, for that portion of the penalty designated for the expenses of the county, city, fire district, local EMS agency or poison control center, respectively.

(2) Twenty-five percent to the principal agency which assisted the administering agency in its investigation.

SEC. 9. Section 25533 of the Health and Safety Code is amended to read:

25533. (a) The Office of Emergency Services shall develop an acutely hazardous materials registration form to be completed by the owner or operator of each business in the state which, at any time, handles any acutely hazardous material. Except as provided in Section 25536, any business which handles acutely hazardous materials in the amounts specified in subdivision (a) of Section 25536 shall file the registration form with the administering agency in accordance with the following schedule:

(1) On or before January 1, 1988, in the case of any facility in existence on that date.

(2) On or before March 1, 1992, in the case of any facility established on or after January 2, 1988, but on or before December 31, 1991.

(3) Before operations commence, in the case of a new facility commencing operations on or after January 1, 1992.

(4) Before any new activities involving acutely hazardous materials are undertaken, in the case of a modified facility.

(b) The Office of Emergency Services may adopt appropriate regulations to implement the requirements of this section.

(c) The acutely hazardous materials registration form shall include, but is not limited to, all of the following information:

(1) The business location information included in the business plan prepared pursuant to Section 25504.

(2) A general description of the processes and principal equipment involved in the handling of the acutely hazardous materials.

(d) Within 30 days of any one of the following events, any business subject to this section shall submit to the administering agency an amendment to the registration form:

(1) Any handling of an acutely hazardous material which was not mentioned on the registration form.

(2) Any material or substantial alterations or additions to the

business or activity which require changes in the risk management program that are different from, or absent in, the present program.

(3) Change of business address.

(4) Change of business ownership.

(5) Change of business name.

(e) A business which fails to file or to amend an acutely hazardous materials registration form pursuant to this section is in violation of this article for purposes of Section 25540, unless the administering agency has notified the handler, in writing, that the acutely hazardous materials information provided in the hazardous materials inventory required by Section 25509 is sufficient to accomplish the purposes of this section.

SEC. 10. Section 4 of Chapter 1383 of the Statutes of 1989 is amended to read:

Sec. 4. On or before January 1, 1993, the State Water Resources Control Board shall conduct a study of the storage of hazardous materials in the state, report its findings, and submit recommendations to the Legislature and the Governor, on ways to improve oversight of aboveground storage facilities. The board shall consider the extent to which storage of hazardous materials in aboveground tanks should be made subject to a state inspection program similar to that specified in Chapter 6.67 (commencing with Section 25270) of Division 20 of the Health and Safety Code, as proposed by Section 1 of this act, or to a strengthened local enforcement program based on Chapter 6.95 (commencing with Section 25500) of Division 20 of the Health and Safety Code.

SEC. 11. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act or costs will be incurred by a local agency or school district because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1129

An act to amend Sections 1799.201, 1799.202, 1799.203, 1799.205, and 1799.206 of, and to add Sections 3176 and 3176.5 to, the Civil Code, and to amend Section 757 of the Financial Code, relating to contracts.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 1799.201 of the Civil Code is amended to read:

1799.201. As used in this title:

(a) "Consumer" means a natural person who has entered into a consumer contract with a seller.

(b) "Consumer contract" means a writing prepared by a seller and signed, or to be signed, by a consumer which provides (1) for the sale or lease of goods or services that are purchased or leased primarily for personal, family, or household purposes, or (2) for extension of credit, the proceeds of which are used primarily for personal, family, or household purposes.

(c) "Consumer contract guaranty" means a writing prepared by a seller and signed by a guarantor which guarantees the obligation of a consumer under a consumer contract.

(d) "Copy" means a reproduction, facsimile, or duplicate.

(e) "Days" means calendar days.

(f) "Goods" means tangible and intangible personal property.

(g) "Guarantor" means a person who guarantees the obligation of a consumer under a consumer contract by signing a consumer contract guaranty. "Guarantor" does not include persons who are required to be provided notice under Section 1799.91.

(h) "Seller" means a person who has entered into a consumer contract with a consumer.

(i) "Services" means work, labor, and services, including depository services and other banking services.

(j) "Financial institution" means any commercial bank, trust company, savings and loan association, credit union, industrial loan company, insurance company, or person engaged in the business of lending money.

SEC. 2. Section 1799.202 of the Civil Code is amended to read:

1799.202. (a) Except as otherwise provided in this title, a seller shall deliver a copy of a consumer contract to the consumer at the time it is signed by the consumer if the consumer contract is signed at a place of business of the seller. If the consumer contract is not signed by the consumer at a place of business of the seller, and the seller has provided a copy of the consumer contract for the consumer which the consumer is instructed to keep, the seller shall mail or deliver a copy of it to the consumer within 10 calendar days after the

seller receives the signed consumer contract. In any case, the copy of the contract provided to the consumer shall not contain any blank spaces to be completed after the consumer signs the contract, shall contain the signature of the seller if it provides for such signature, and may also contain the signature of the consumer.

(b) A seller that is a financial institution need not deliver to the consumer, pursuant to subdivision (a), any writing which the consumer contract incorporates by reference if either of the following conditions apply:

(1) The writing was previously delivered or mailed to the consumer.

(2) The writing was not prepared by the seller.

(c) If the consumer contract is a signature card which is utilized for providing consumer identification and maintaining confidentiality with respect to an account at a financial institution, a document which includes the same terms as those contained in the consumer contract shall be deemed a copy.

SEC. 3. Section 1799.203 of the Civil Code is amended to read:

1799.203. (a) It shall be deemed compliance with Section 1799.202 if a copy of any consumer contract which is subject to Article 10 (commencing with Section 1810.1) of Chapter 1 of Title 2, or which is an open-end consumer credit plan subject to Section 127 of the federal Truth in Lending Act (15 U.S.C. 1637), is delivered or mailed to the consumer before the consumer enters into a transaction covered and permitted by the consumer contract.

(b) Section 1799.202 does not apply to any of the following:

(1) A consumer contract for the purchase of goods by mail if the seller permits the consumer to examine the goods for seven calendar days and cancel the consumer contract and receive a full refund within 30 calendar days for returned unused and undamaged goods.

(2) A written contract created by, and consisting of, an exchange of letters by mail.

(3) Any consumer contract which is required to be mailed or delivered at a time prescribed by another law of this state or the United States.

SEC. 4. Section 1799.205 of the Civil Code is amended to read:

1799.205. (a) A seller who fails to comply with Section 1799.202 is liable to the consumer for any actual damages suffered by the consumer as the result of that failure. The remedy provided by this subdivision is nonexclusive and is in addition to any other remedies or penalties available under other laws of this state.

(b) Failure to comply with Section 1799.202 does not create an independent basis for the rescission, but is admissible to establish a basis for the rescission of the contract otherwise authorized by law.

SEC. 5. Section 1799.206 of the Civil Code is amended to read:

1799.206. (a) Except as otherwise provided in this section, a seller shall deliver a copy of the consumer contract guaranty to the guarantor at the time the consumer contract guaranty is signed by the guarantor if the consumer contract guaranty is signed by the

guarantor at a place of business of the seller. If the consumer contract guaranty is not signed by the guarantor at a place of business of the seller, the seller shall mail or deliver a copy of the consumer contract guaranty to the guarantor within 10 calendar days after the seller receives the consumer contract guaranty. In either case, the copy of the contract that is provided to the consumer shall be one that contains the signatures of the guarantor and the consumer. The contract shall not contain any blank spaces to be filled in after the consumer signs the contract.

(b) If more than one guarantor has signed the consumer contract guaranty, the seller may comply with subdivision (a) by mailing or delivering the copy to any one of the guarantors who reside at the same address. A copy shall also be mailed or delivered to any guarantor who has signed the consumer contract guaranty and who does not reside at the same address.

(c) A seller that fails to comply with this section is liable to the guarantor for any actual damages suffered by the guarantor as the result of that failure. The remedy provided by this subdivision is nonexclusive and in addition to any other remedies or penalties available under other laws of this state.

(d) Failure to comply with this section does not create a new basis for rescission, but is admissible to establish a basis for rescission of the consumer contract guaranty otherwise authorized by law.

SEC. 6. Section 3176 is added to the Civil Code, to read:

3176. In any action against an owner or construction lender to enforce payment of a claim stated in a bonded stop notice, the prevailing party shall be entitled to collect from the party held liable by the court for payment of the claim, reasonable attorney's fees in addition to other costs and in addition to any liability for damages.

The court, upon notice and motion by a party, shall determine who is the prevailing party for purposes of this section, whether or not the suit proceeds to final judgment. Except as otherwise provided by this section, the prevailing party shall be the party who recovered a greater relief in the action. The court may also determine that there is no prevailing party. Where an action has been voluntarily dismissed or dismissed pursuant to a settlement of the case, there shall be no prevailing party for purposes of this section.

Where the defendant alleges in his or her answer that he or she tendered to the plaintiff the full amount to which he or she was entitled, and thereupon deposits in court for the plaintiff, the amount so tendered, and the allegation is found to be true, then the defendant is deemed to be a prevailing party.

SEC. 6.5. Section 3176.5 is added to the Civil Code, to read:

3176.5. If the plaintiff is the prevailing party in any action against an owner or construction lender to enforce payment of a claim stated in a bonded stop notice, any amount awarded on the claim shall include interest at the legal rate calculated from the date the bonded stop notice is served upon the owner or construction lender pursuant to Section 3172.

SEC. 7. Section 757 of the Financial Code is amended to read:

757. (a) A bank or trust company may engage in the business of renting safe deposit boxes and may receive personal property for safekeeping and storage on its banking premises.

(b) A copy of any safe deposit rental agreement, or personal property safekeeping and storage agreement, which is prepared by the bank or trust company and signed by the customer shall be delivered to the customer at the time the agreement is signed if the agreement is signed at a place of business of the bank or trust company. If the agreement is not signed at a place of business of the bank or trust company, the bank or trust company shall mail or deliver a copy of the agreement to the customer within 10 calendar days after the bank or trust company receives it. In either case, the copy of the contract that is provided to the customer shall be one that contains the signatures of a representative of the bank or trust company and the customer. The contract shall not contain any blank spaces to be filled in after the customer signs the contract. If more than one customer has signed the agreement, the bank or trust company may comply with this section by mailing or delivering the copy to any one of the customers who reside at the same address. A copy shall also be mailed or delivered to any other customer who has signed the agreement and who does not reside at the same address. As used in this section "copy" means a reproduction, facsimile, or duplicate. A bank or trust company which fails to comply with this section is liable to its customer for any actual damages suffered by the customer as a result of that failure. The remedy provided by this section is nonexclusive and is in addition to any remedies or penalties available under other laws of this state.

CHAPTER 1130

An act to amend Section 21121 of the Public Contract Code, and to amend Sections 3, 4, 6, 7, 9, 10, 15, 20, 24, 26, 29, 30, 43, and 45 of, to add Sections 5.2, 21.1, 24.1, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 60, 60.1, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, and 86 to, and to amend and renumber Sections 46 and 47 of, the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), relating to the Monterey County Water Resources Agency, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 21121 of the Public Contract Code is amended to read:

21121. (a) All contracts for any improvement or unit of work, if the cost according to the estimate of the engineer, exceeds five thousand dollars ($5,000), shall be let to the lowest responsible bidder or bidders.

(b) The board shall first determine whether the contract shall be let as a single unit for the whole of the work, or shall be divided into severable convenient parts, or both, according to the best interests of the agency.

(c) The board shall make call for bids and advertise the call by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed and published in the territory of the agency inviting sealed proposals for the construction or performance of the improvement or work before any contract is entered into. The call for bids shall state whether the work is to be performed as a unit for the whole thereof or shall be divided into severable convenient specific parts, or both, as stated in the call. The board may let the work by single contract for the whole thereof as a unit or it may divide the work into severable convenient parts by separate contracts, as stated in the call, according to the best interests of the agency.

(d) The board shall require the successful bidder or bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material in connection with the contract. The bonds shall contain the terms and conditions set forth in Chapter 3 of Division 5 of Title 1 of the Government Code and are subject to the provisions of that chapter.

(e) The board shall have the right to reject any and all bids. The board of supervisors may, without advertising for bids, have the work done by force account if any of the following requirements are met:

(1) All the projects are rejected.

(2) No proposals are received in response to the advertisement.

(3) The estimated cost of the work does not exceed the sum of five thousand dollars ($5,000).

(4) The work consists of channel protection, maintenance work, or emergency work necessary to protect life and property from impending flood damage.

(f) The agency may purchase in the open market, without advertising for bids, materials and supplies for use in any work either under contract or by force account.

(g) The Monterey County Board of Supervisors may grant to the board of directors, appointed pursuant to Section 49 of the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), any of the powers or duties granted to the Monterey County Board of Supervisors by this section.

SEC. 1.1. Section 3 of the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990) is amended to read:

Sec. 3. This act shall be known and may be cited as the Monterey

County Water Resources Agency Act.

SEC. 1.2. Section 4 of the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990) is amended to read:

Sec. 4. The Monterey County Water Resources Agency is hereby created as a flood control and water agency. The agency consists of all the territory of the county lying within the exterior boundaries of the county.

SEC. 2. Section 5.2 is added to the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

Sec. 5.2. Unless otherwise indicated by their context, the terms defined in this section govern the interpretation of this act:

(a) "Agency" means the Monterey County Water Resources Agency.

(b) "Board," "board of supervisors," or "supervisors" means the board of supervisors of the agency.

(c) "County" means the County of Monterey.

(d) "Director" or "directors" means a director or the directors appointed pursuant to Section 49.

SEC. 2.1. Section 6 of the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990) is amended to read:

Sec. 6. (a) The board of supervisors, by resolution, may establish zones within the agency without reference to the boundaries of other zones, setting forth in the resolutions descriptions using metes and bounds and granting to each of the zones a zone number, and may institute zone projects for the specific benefit of the zones.

(b) Proceedings for the establishment of the zones may be conducted concurrently with, and as a part of, proceedings for the instituting of projects relating to the zones, which proceedings shall be instituted in the manner provided in Sections 20 and 24.1.

SEC. 2.2. Section 7 of the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990) is amended to read:

Sec. 7. (a) At any time after the establishment of one or more zones for a project, the board may amend any or all of the zones if it appears to the board that circumstances have changed or that the initial determinations relating to the zone are now inappropriate. The amendments may include any of the following:

(1) Changes in the zone boundaries to annex or detach territory.

(2) Increases or decreases in the number of zones relating to the project by the making of boundary changes, the addition of new zones, or the elimination of old zones.

(3) Changes in the percentage of project benefits allocable to the zone.

In order to make the amendment, the board shall follow the procedure for the initial establishment of zones in the manner provided in Sections 20 and 24.1. However, the project itself need not be approved again.

(b) Notwithstanding subdivision (a), the boundaries of any zone, and the percentages to be raised from any of several participating zones, shall not be reduced until all bonds issued by the agency with respect to the zone and its project have been fully paid and discharged.

(c) Paragraph (5) of subdivision (b) of Section 43 applies to all annexations made pursuant to this section.

SEC. 2.3. Section 9 of the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990) is amended to read:

Sec. 9. The agency has perpetual succession and may do any of the following:

(a) Sue and be sued in the name of the agency in all actions and proceedings in all courts and tribunals of competent jurisdiction.

(b) Adopt a seal and alter it at pleasure.

(c) Acquire by grant, purchase, lease, gift, devise, contract, construction, or otherwise, and hold, use, enjoy, sell, let, and dispose of real and personal property of every kind, including lands, structures, buildings, rights-of-way, easements, and privileges, and construct, maintain, alter, and operate any and all works or improvements, within or without the agency, necessary or proper to carry out any of the purposes of this act and complete, extend, add to, alter, remove, repair, or otherwise improve any works, or improvements, or property acquired by it as authorized by this act.

(d) (1) Store water in surface or underground reservoirs within or outside of the agency for the common benefit of the agency of any zones affected.

(2) Conserve and reclaim water for present and future use within the agency.

(3) Appropriate and acquire water and water rights, and import water into the agency and conserve within or outside of the agency, water for any purpose useful to the agency.

(4) Commence, maintain, intervene in, defend, or compromise, in the name of the agency on behalf of the landowners therein, or otherwise, and assume the costs and expenses of any action or proceeding involving or affecting the ownership or use of waters or water rights within or without the agency, used or useful for any purpose of the agency or of common benefit to any land situated therein, or involving the wasteful use of water therein.

(5) Commence, maintain, intervene in, defend, and compromise and to assume the cost and expenses of any and all actions and proceedings.

(6) Prevent interference with, or diminution of, or declare rights in, the natural flow of any stream or surface or subterranean supply of waters used or useful for any purpose of the agency or of common benefit to the lands within the agency or to its inhabitants.

(7) Prevent unlawful exportation of water from the agency.

(8) Prevent contamination, pollution, or otherwise rendering unfit or beneficial use the surface or subsurface water used or useful

in the agency, and commence, maintain, and defend actions and proceedings to prevent any interference with those waters which endangers or damages the inhabitants, lands, or use of water in, or flowing into, the agency. However, the agency may not intervene or take part in, or pay the cost or expenses of, actions or controversies between the owners of lands or water rights which do not affect the interests of the agency.

(e) Control the flood and storm waters of the agency and the flood and storm waters of streams that have their sources outside of the agency, but which streams and the flood waters thereof, flow into the agency, and conserve those waters for beneficial and useful purposes of the agency by spreading, storing, retaining, and causing to percolate into the soil within or outside the agency, or save or conserve in any manner all or any of those waters and protect from damage from those flood or storm waters the watercourses, watersheds, public highways, life, and property in the agency, and the watercourses of streams outside the agency flowing into the agency.

(f) Cooperate and act in conjunction with, the state, or any of its engineers, officers boards, commissions, departments, or agencies, or with the United States, or any of its engineers, officers, boards, commissions, departments, or agencies, or with any public or private corporation, or with the county, in the construction of any work for the controlling of flood or storm waters of, or flowing into, the agency, or for the protection of life or property therein, or for the purpose of conserving those waters for beneficial use within the agency, or in any other works, acts, or purposes provided for herein, and adopt and carry out any definite plan or system of work for any such purpose.

(g) Carry on technical and other necessary investigations, make measurements, collect data, make analyses, studies, and inspections pertaining to water supply, water rights, control of flood and storm waters, and use of water both within and without the agency relating to watercourses or streams flooding in or into the agency. For those purposes, the agency has the right of access through its authorized representatives to all properties within the agency and elsewhere relating to watercourses and streams flowing in or into the agency. The agency, through its authorized representatives, may enter upon those lands and make examinations, surveys, and maps thereof.

(h) (1) Enter upon any land, to make surveys and locate the necessary works of improvement and the lines for channels, conduits, canals, pipelines, roadways, and other rights-of-way.

(2) Acquire by purchase, lease, contract, gift, devise, or other legal means all lands and water and water rights and other property necessary or convenient for the construction, use, supply maintenance, repair, and improvement of those works, including works constructed and being constructed by private owners, lands for reservoirs for storage of necessary water, and all necessary appurtenances, if necessary to that end, and acquire and hold in the

name of the state, the capital stock of any mutual water company or corporation, domestic or foreign, owning water or water rights, canals, waterworks, franchises, concessions, or rights, if the ownership of the stock is necessary to secure a water supply required by the agency or any part thereof, and if when holding that stock, the agency is entitled to all the rights, powers, and privileges, and is subject to all the obligations and liability conferred or imposed by law upon other holders of that stock in the same company.

(3) Perform acts necessary or proper for the performance of any agreement with the United States, or any state, county, city, district of any kind, public or private corporation, association, firm, or individual, or any number of them, for the joint acquisition, construction, leasing, ownership, disposition, use, management, maintenance, repair, or operation of any rights, works, or other property of a kind which might be lawfully acquired or owned by the agency.

(4) Acquire the right to store water in any reservoirs, or carry water through any canal, ditch, or conduit not owned or controlled by the agency.

(5) Grant to any owner or lessee the right to the use of any water or right to store water in any reservoir of the agency, or to carry water through any tunnels, canal, ditch, or conduit of the agency.

(6) Perform acts necessary or proper for the performance of any agreement with any district of any kind, public or private corporation, association, firm, or individual, or any number of them for the transfer or delivery to any district, corporation, association, firm, or individual of any water right or water pumped, stored, appropriated, or otherwise acquired or secured, for the use of the agency, or for the purpose of exchanging the same for other water, water right, or water supply in exchange for water, water right, or water supply to be delivered to the agency by the other party to the agreement.

(7) Cooperate with, and act in conjunction with, the state, or any of its engineers, officers, boards, commissions, departments, or agencies, or with the United States, or any of its engineers, officers, boards, commissions, departments, or agencies, or with any public or private corporation, in the construction of any work for controlling flood or storm waters of streams in or running into the agency, or for the protection of life or property therein, or for the purpose of conserving the waters for beneficial use within the agency, or for the protection, enhancement, and use of groundwater within the agency, or in any other works, acts, or purposes provided for herein, and adopt and carry out any definite plan or system of work for any such purpose.

(i) Incur indebtedness and issue bonds in the manner provided in this act.

(j) Cause taxes or assessments to be levied and collected in order to pay any obligation of the agency and carry out any of the purposes of this act.

(k) Make contracts, and employ labor, and do all acts necessary for the full exercise of all powers vested in the agency or any of the officers thereof, by this act.

(*l*) Buy, provide, sell, and deliver water.

(m) Exchange water.

(n) Develop and distribute water to persons in exchange for ceasing or reducing groundwater extractions, and prevent groundwater extractions which are determined to be harmful to the groundwater basin.

(o) Transport, reclaim, purify, desalinate, treat, or otherwise manage and control water for the beneficial use of persons or property within the agency.

(p) Construct, maintain, improve, and operate public recreational facilities appurtenant to any water reservoir operated or contracted to be operated by the agency whether within or without the agency, subject to the limitations as to eminent domain use for recreational purposes outside the agency set forth in Section 4, and provide by ordinance regulations binding upon all persons to govern the use of those facilities, including regulations imposing reasonable charges for the use thereof.

(q) Regulate inspect, and license all structures, including docks and wharves, or structures used as docks or wharves, and their anchorage or mooring system, that float on, or are designed to float on, the surface of reservoirs operated or contracted to be operated by the agency or that are located within the area subject to its flowage easement, or that are located on real property of the agency, and charge a reasonable fee for licensing those structures.

Any of those structures that are unlicensed more than 30 days after notice to license the structure has been posted thereon, or any unlicensed structure that is neither anchored nor moored, or is found on property owned in fee by the agency, is a nuisance. The agency may have injunctive relief for any of those nuisances, or may summarily abate any untended structure floating on the surface of the reservoir that is neither anchored nor moored, or any untended structure found on property owned in fee by the agency. It is a misdemeanor to maintain, anchor, or moor or suffer to be maintained, anchored, or moored on property of which one is possessed any unlicensed structure when that structure is required to be licensed pursuant to this act. The misdemeanor is punishable by a fine not to exceed five hundred dollars ($500), or by imprisonment in the county jail for not to exceed six months, or by both that fine and imprisonment. Each day of violation of these provisions shall constitute a separate offense.

(r) Use any part of its water, and any part of its works, facilities, improvements, and property used for the development, storage, and transportation of water pursuant to this section to provide, generate, and deliver hydroelectric power, and acquire, construct, operate, and maintain any and all works, facilities, improvements, and property necessary or convenient therefor.

(s) Pursuant to contract, provide, generate, sell, and deliver hydroelectric power to the Untied States or any board, department, or agency thereof, to the state for the purposes of the State Water Resources Development System, and to any public agency, public utility, private corporation, or other person or public entity, or any combination thereof, engaged in the sale of electric power. For the purposes of this subdivision, "public agency" means a city, county, city and county, district, local agency, public authority, or public corporation.

(t) Construct, maintain, and operate works, facilities, improvements, and property of the agency useful or necessary for the provision, generation, and delivery of hydroelectric power, pursuant to subdivisions (r) and (s).

(u) Prevent the export of groundwater from the Salinas River Groundwater Basin, except that use of water from the basin on any part of Fort Ord shall not be deemed an export. Nothing in this act prevents the development and use of the Seaside Groundwater Basin for use on any lands within or outside that basin.

SEC. 2.4. Section 10 of the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990) is amended to read:

Sec. 10. (a) (1) Notwithstanding any other provision of this act, the agency may authorize, issue, and sell revenue bonds pursuant to Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code to provide funds for acquiring, constructing, improving, or financing any one or more revenue producing enterprises for any one or more of the purposes of the agency, or zone or participating zones thereof, or for refunding any outstanding bonds that should be incurred, and can be repaid and liquidated as to both principal and interest from revenues designated by the board.

(2) "Enterprise," as used in this section, means a revenue-producing system, plant, works, or undertaking used for, or useful in, carrying out any one or more of the purposes of the agency.

(3) In connection with the authorization, issue, and sale of revenue bonds pursuant to this section, and so long as any of these bonds remain outstanding, the agency may exercise, in addition to the powers covered by this section, any of the powers of local agencies provided for in Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code.

(b) Notwithstanding Sections 54382, 54400, and 54402 of the Government Code, or any other provision of the law, the board shall determine and provide, in any resolution providing for the issuance of the revenue bonds, for the following:

(1) For maturity dates of the bonds not exceeding 50 years from their respective dates.

(2) For interest on the bonds at a rate not exceeding the maximum rate specified in Section 53531 of the Government Code.

(c) Any election for the issuance of revenue bonds for a zone or

participating zones of the agency is limited to the area of that zone or participating zones, and the proceeds from the sale of any such revenue bonds may be expended only for the benefit of that zone or participating zones.

(d) No bonds authorized under this section may be issued and sold until the bonds have been investigated and certified pursuant to the Districts Securities Law (Chapter 1 (commencing with Section 2000) of Division 10 of the Water Code).

SEC. 2.5. Section 15 of the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990) is amended to read:

Sec. 15. (a) The board of supervisors of the county is ex officio the board of supervisors of the agency.

(b) The board of supervisors may adopt, by ordinance, reasonable procedures, rules, and regulations to implement this act. The board of supervisors may specify in any ordinance that a violation of the ordinance is an infraction.

(c) (1) The board may, by ordinance, declare that a violation of its ordinances is a nuisance and may provide for the summary abatement of the nuisance. The board may provide for the commencement of civil proceedings to abate a nuisance.

(2) The board may provide that any person committing a nuisance is liable for the costs incurred by the agency to abate a nuisance, including, but not limited to, costs of an investigation, costs incurred to eliminate or mitigate the nuisance, court costs, attorney fees, and costs incurred to monitor compliance. The board may provide for civil penalties which may be imposed by a court against persons found by the court to have committed a nuisance.

(d) All ordinances, resolutions, and other legislative acts for the agency shall be adopted by the board of supervisors, and certified to, recorded, and published in the same manner, except as otherwise expressly provided, as are ordinances, resolutions, or other legislative acts for the county.

SEC. 2.6. Section 20 of the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990) is amended to read:

Sec. 20. (a) The board may institute projects for single zones and joint projects for two or more zones, for the financing, constructing, maintaining, operating, extending, repairing, or otherwise improving any work or improvement of common benefit to that zone or participating zones.

(b) To initiate proceedings for the approval of any project, the board shall adopt a resolution which specifies all of the following:

(1) Its intention to undertake the project and a general description of the proposed project.

(2) The location and the extent of the proposed zones to be benefited and the percentage of the benefit to be received by each zone.

(3) The engineering estimates of the cost of the project to be

borne by the particular zones or participating zones.

(4) The proposed method for financing the project, including, if applicable, the issuance of bonds, the kind and estimated amount of the bonds to be issued, and the levying of annual assessments.

(5) The estimated rates at which the annual assessments, if any, will be levied.

(6) The time and place for a public hearing on the resolution.

(7) The place in the project zone or in each of the participating zones where a map or maps showing the general location and general construction of the project may be examined by the public during regular business hours.

(c) The hearing shall be held pursuant to Section 24.1. Any assessment to be levied in connection with a project shall be levied pursuant to Section 24.

SEC. 2.7. Section 21.1 is added to the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

Sec. 21.1. (a) The Legislature finds and determines that the watersheds of the coastal streams south of Carmel Highlands in Monterey County contribute to the unique environment of the area, and that the surface water and groundwater naturally occurring in that area, should be retained within that area.

(b) For the purpose of preserving the unique environmental characteristics of the area described in subdivision (a), no person or entity shall export from the coastal watershed area any water obtained as groundwater or surface water in that area.

(c) If any export of water in violation of this section is attempted, the agency or any person or entity affected by the export may obtain from the superior court, and the court shall grant, injunctive relief prohibiting the export of water.

(d) For purposes of this section, the "coastal watershed area" includes the watershed of Doud Creek and the watersheds of all streams that drain into the Pacific Ocean in Monterey County south of Doud Creek, excluding any portion of any watershed lying outside the agency's territory.

(e) This section does not prohibit the use of water on lands adjacent to the coastal watershed which are in common ownership with lands within the watershed, nor does it restrict use of water which is consistent with an existing appropriative right.

SEC. 2.8. Section 24 of the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990) is amended to read:

Sec. 24. (a) The board of supervisors may do any of the following:

(1) Levy ad valorem taxes or assessments upon all property in the agency to pay the general administrative costs and expenses of the agency, and to carry out any of the objects or purposes of this act of common benefit to the agency.

(2) Levy taxes or assessments in each or any of the zones and participating zones to pay the costs and expenses of carrying out any

of the purposes of this act of special benefit to the zone or zones, including, but not limited to, the constructing, maintaining operating, extending, repairing, or otherwise improving any or all works or improvements established or to be established within or on behalf of the respective zones, according to the benefits derived or to be derived by the respective zones, by a levy or assessment upon all property within a zone or participating zones, which may include land, improvements thereon, and personal property.

It is declared that for the purposes of any tax or assessment levied under this subdivision, the property so taxed or assessed within a given zone is equally benefited.

(3) Levy taxes or assessments for the purpose authorized by paragraph (2), in each or any of the zones or participating zones, according to the special benefits derived or to be derived by the specific properties therein. The board may by ordinance adopt formulas to determine differential rates within a zone based on special benefits, parcel size, land use, and any other pertinent factor or combination of factors.

(b) To initiate proceedings to levy any assessment in connection with a project, the board shall comply with Section 20.

(c) To initiate proceedings to levy any other assessment authorized by this act, the board of supervisors shall adopt a resolution which specifies all of the following:

(1) Its intention to levy the assessments.

(2) The location and the boundaries of the zones or areas within which the assessment is proposed to be levied.

(3) The specific purpose for which the assessment is to be levied.

(4) The estimated rates at which the annual assessments will be levied.

(5) The time and place for a public hearing on the resolution.

(d) The hearing on any assessment proceeding initiated pursuant to this act shall be held pursuant to Section 24.1, unless otherwise provided by this act.

(e) In the event of project cooperation with any of the governmental bodies as authorized in subdivision (f) of Section 9, and the making of a contract with any such governmental body, for the purposes set forth in subdivision (f), by the terms of which work is agreed to be performed by any such governmental body in any specified zone or participating zones, for the particular benefit thereof, and by that contract it is agreed that the agency is to pay to that governmental body a sum of money in consideration or subvention for the performance of the work by that governmental body, the board may, after proceedings in the manner prescribed in Section 20, levy and collect a special tax or assessment upon the property in the zone or participating zones, to raise funds to enable the agency to make that payment, in addition to other taxes or assessments otherwise provided for in this act.

(f) The taxes or assessments shall be levied and collected together with, and not separately from, taxes for county purposes, and the

revenues derived from the agency taxes or assessments shall be paid into the county treasury to the credit of the agency, or the respective zones thereof, and the board may control and order the expenditure thereof for those purposes.

(g) No revenues, or portions thereof, derived in any of the several zones from the taxes or assessments levied under paragraph (2) or (3) of subdivision (a) shall be expended for constructing, maintaining, operating, extending, repairing, or otherwise improving any works or improvements located in any other zone, except in the case of joint projects, or for projects authorized or established outside that zone, or zones, but for the benefit thereof.

(h) In cases of projects joint to two or more zones, the zones will become, and shall be referred to as, participating zones.

(i) (1) Once an annual assessment has initially been authorized and levied pursuant to this section, the annual levy of that assessment in succeeding years shall be made by resolution of the board of supervisors, and shall not be subject to the protest procedures or require an election unless an increase in the assessment rate is proposed.

(2) Any renewal of the assessment after the assessment has been suspended or terminated by the board of supervisors, or expires in accordance with the terms of the original authorization, shall be treated as a new assessment.

SEC. 2.9. Section 24.1 is added to the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

Sec. 24.1. (a) The procedures set forth in this section apply to hearings for approval of a project, establishment of a zone, amendment of a zone, approval of assessments levied in connection with a project, and approval of any other assessments under this act.

(b) (1) Notice shall be given by publication pursuant to Section 6066 of the Government Code. In any particular case, the board may establish a longer notice period. In any case where a hearing is required in order to approve a project for which assessments may be levied, notice of the hearing shall also be published once a week for two consecutive weeks, with the first publication occurring at least 60 days before the date set for the hearing. Publication shall be made in a newspaper of general circulation designated by the board, which is circulated in the zone or each of the participating zones. If no such newspaper exists, the publication shall be made in any newspaper of general circulation in the county that is likely to reach persons interested in the proposal, and in addition, a notice shall be posted for at least two consecutive weeks prior to the hearing in five public places designated by the board, in the affected zones or area of benefit.

(2) The notice shall include all of the following:

(A) The text of the resolution initiating the approval process and setting the hearing date.

(B) A statement which informs the public that they may appear and speak on the proposal at the public hearing.

(C) A statement advising that written protests submitted at or before the time set for the hearing by registered voters or landowners, as applicable, will be considered by the board.

(3) Any maps required to be mentioned in the resolution shall be posted or made readily available during normal business hours in each of the public places designated in the notice at least two weeks prior to the hearing.

(c) At or before the time set for the hearing, any person may file a written protest with the agency's secretary. Each protest shall include all of the following:

(1) A brief statement of the objection.

(2) A description of any lot or parcel located in the zone or area affected by the proposal, in which each protester has an ownership interest, to enable the agency secretary to determine that the protester is the owner of property within the affected zone or area.

(3) If the name of the protester is not shown on the last assessment roll as the owner of the lot or parcel, written evidence that the protester is the legal owner of the property.

(4) The names of any coowners or joint owners, including those signing the protest, and their proportionate ownership interests in the property.

(5) A statement indicating whether the protester resides within the affected zone or area and whether the protester is registered to vote as a resident within the zone or area.

(6) The protester's residence address.

(7) The signature of the protester. If the person making the protest is a business entity, the signature shall be that of an authorized representative and shall be accompanied by a declaration, executed under penalty of perjury, or other evidence indicating the basis of the protester's authority.

(d) The secretary shall endorse on each protest, upon its receipt, the date of receipt, and at the time of the hearing shall count the number of protests and report to the board the results of the count.

(e) At the hearing, the board may modify the proposal to make the proposal less costly or burdensome. The modifications may include, but are not limited to, any of the following:

(1) Modifying the project in a manner which is consistent with the proposed financing arrangements and with the nature of the project as originally proposed.

(2) Reducing the area proposed to be affected by the proposal.

(3) Adjusting the boundaries of the participating zones, if no territory which was not previously included in one of the proposed zones is added in connection with the adjustment and if the boundary adjustment does not result in increased assessment rates for any property proposed to be included.

(4) Reducing the amount of the bonds proposed to be issued.

(5) Reducing the rate of assessment.

(6) Altering the apportionment of assessments if no assessment is increased.

(7) Reducing the total amount of the proposed assessment.

(f) The board shall abandon the proposal or submit the proposal to the voters at an election under either of the following circumstances:

(1) At the time of the hearing 12 or more registered voters have resided in the affected zone or area of benefit for at least the previous 90 days and protests are filed which are signed by that number of registered voters residing in the affected zone or area of benefit which equal at least 25 percent of the number of registered voters who at the time of the last gubernatorial election resided in the affected zone or area of benefit and voted in that election.

(2) In any other case, protests are filed which are signed by persons owning at least 25 percent of the land area within the affected zone or area of benefit. If property is jointly owned, only that portion of the property owned by the signer of a protest may be counted for purposes of this paragraph. If an election is called pursuant to this paragraph, only persons who own land in the affected zone or area of benefit may vote in the election.

(g) If the proposal is submitted to the voters, the voting shall take place at a general or special election which is held in the affected zone or area of benefit at least 45 days after the date of the close of the hearing. Article 3 (commencing with Section 3780), Article 4 (commencing with Section 3790), and Article 5 (commencing with Section 3795) of Chapter 2 of Division 5 of the Elections Code apply to an election held pursuant to this section.

(h) In an election held pursuant to this section in which only landowners are entitled to vote, each landowner has only one vote for each acre and may cast as many votes, including fractions of votes, as there are acres of land owned by the landowner in the territory in which the election is held. Fraction of an acre shall be rounded to the nearest one-tenth for voting purposes, but no landholding shall be deemed to be less than one-tenth of an acre. If property is jointly owned, the several owners are deemed to be one owner for voting purposes. The joint owners may split their votes as long as the total number of their votes does not exceed the total number of votes which would be granted to them as one owner.

(i) If an election is held and the proposal is approved by a majority of the votes cast on the proposal, the board may proceed with the proposal.

(j) If the board abandons the proceedings or the proposal fails to win a majority of the votes at an election, no further proceedings to implement the proposal may be undertaken for six months from the date of the abandonment or the date of the election.

(k) For purposes of this section, if a proposal is made to amend a zone by annexing or detaching territory, the "affected zone" or "area of benefit" means the territory proposed to be annexed or detached.

SEC. 2.10. Section 26 of the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990) is amended to

read:

Sec. 26. (a) If the board determines that a bonded indebtedness should be incurred to pay the cost of any work or improvement in any zone, the board may, by resolution, determine and declare the respective amounts of bonds necessary to be issued in each zone, in order to raise the amount of money necessary for each work or improvement and the maximum rate of interest of the bonds. The board shall file a copy of the resolution, duly certified by the clerk, in the office of the county recorder within five days after its issuance. Upon the filing of the copy of the resolution, the board may proceed with the bond election.

(b) After the resolution is recorded pursuant to subdivision (a), the board may call a special bond election in the zone or participating zones at which shall be submitted to the qualified electors of the zone or participating zones the question whether or not bonds shall be issued in the amount or amounts determined in the resolution and for the purpose or purposes therein stated. The bonds and the interest thereon shall be paid from revenue derived from annual taxes or assessments levied pursuant to this act.

(c) (1) The board shall call the special bond election by ordinance and not otherwise and submit to the qualified electors of the zone or participating zones, the proposition of incurring a bonded debt in the zone or participating zones in the amount and for the purposes, stated in the resolution and shall recite therein the purposes for which the indebtedness is proposed to be incurred. It shall be sufficient to give a brief, general description of those purposes, and to refer to the recorded copy of the resolution adopted by the board, and on file for particulars.

(2) The ordinance shall also state the estimated cost of the proposed work and improvements, the amount of the principal of the indebtedness to be incurred therefor, and the maximum rate of interest to be paid on the indebtedness and shall fix the date on which the special election shall be held, and the form and contents of the ballot to be used. The rate of interest to be paid on the indebtedness shall not exceed the maximum rate specified in Section 53531 of the Government Code.

(3) For the purposes of the election, the board shall, in the ordinance, establish special bond election precincts within the boundaries of each zone and participating zone and may form election precincts by consolidating the precincts established for general elections in the agency to a number not exceeding six general precincts for each special bond election precinct and shall designate a polling place and appoint one inspector, one judge, and one clerk for each of the special bond election precincts.

(d) In all particulars not recited in the ordinance, the special bond election shall be held as nearly as practicable in conformity with the general election laws of the state.

(e) The board shall cause a map or maps to be prepared covering a general description of the work to be done, which shall show the

location of the proposed works and improvements and shall cause the map to be posted in a prominent place in the county courthouse for public inspection for at least 30 days before the date fixed for the election.

(f) The ordinance calling the special bond election shall, prior to the date set for the election, be published pursuant to Section 6062 of the Government Code in a newspaper of general circulation, circulated in each zone and participating zone affected. The last publication of the ordinance shall be at least 14 days before the election, and if there be no such newspaper, then the ordinance shall be posted in five public places designated by the board, in each zone and participating zone for at least 30 days before the date fixed for the election. No other notice of the election need be given nor polling place cards be issued.

(g) Any defect of irregularity in the proceeding prior to the calling of the special bond election shall not affect the validity of the bonds authorized by the election. If at the election a majority of the votes cast are in favor of incurring the bonded indebtedness, then bonds for the zone or participating zones for the amount stated in the proceedings shall be issued and sold in the manner provided by this act.

SEC. 2.11. Section 29 of the Monterey County Water Resources Act (Chapter 1159 of the Statutes of 1990) is amended to read:

Sec. 29. Any bonds issued under Section 26 of this act, and the interest thereon, shall be paid from revenue derived from annual taxes or assessments levied pursuant to this act. No zone or property in a zone is liable for the share of bonded indebtedness of any other zone, nor may any money derived from taxation or assessment in any of the several zones be used in payment of principal or interest or otherwise of the share of bonded indebtedness chargeable to any other zone.

SEC. 2.12. Section 30 of the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990) is amended to read:

Sec. 30. The board shall levy a tax or assessment each year in the zones of issuance, sufficient to pay the interest and that portion of the principal of the bonds as is due or to become due before the time for making the next general tax levy. The taxes or assessments shall be levied and collected in the respective zones of issuance, together with and not separately from taxes for county purposes, and when collected shall be paid into the county treasury to the credit of the zone of issuance, and shall be used for the payment of the principal and interest on the bonds. The principal and interest on the bonds shall be paid by the county treasurer in the manner provided by law for the payment of principal and interest on bonds of the county.

SEC. 2.13. Section 43 of the Monterey County Water Resources Agency Act is amended to read:

Sec. 43. (a) In addition, or as an alternative, to the procedures for amending zones described in Section 7, any territory in the

agency lying within the watershed within which a zone is situated may be annexed to that zone pursuant to this section. Territory which is in, or annexed to, one zone may be annexed to another zone pursuant to this section.

(b) The following applies with respect to the annexation of new territory to any zone pursuant to this section:

(1) (A) A petition for annexation by election signed by 25 percent of the freeholders residing in the territory proposed to be annexed as shown by the last equalized assessment roll of the county shall be presented to the board.

(B) The petition shall designate specifically the boundaries of the territory proposed to be annexed and its assessed valuation as shown by the last equalized assessment roll and shall ask that the territory be annexed to the zone. The petition shall be accompanied by a bond in the sum of not less than one hundred dollars ($100), to be approved by the board and filed with the clerk of the board as security for the payment by the petitioners of the reasonable cost of the election on annexation, in the event that at the election less than a majority of the votes cast are in favor of annexation. The petition shall be verified by the affidavit of one of the petitioners.

(C) The petitioner shall be published by the petitioners for at least two weeks preceding its hearing in a newspaper of general circulation published in the zone, if there is one, or, if not, in a newspaper of general circulation published in the agency, together with a notice stating the number of signers of the petition, the time when the petition will be presented to the board and that all persons interested may appear and be heard. It shall not be necessary to publish the names of the signers.

(D) At the time specified for the hearing, the board shall hear the petition and may adjourn the hearing from time to time. Upon final hearing of the petition, the board, if it approves the petition as originally presented or in a modified form, shall make an order describing the exterior boundaries of the territory proposed to be annexed and ordering that an election be held in such territory for the purpose of determining whether or not the territory shall be annexed to the zone. The order shall fix the day of the election, which shall be within 60 days from the date of the order, and shall show the boundaries of the territory proposed to be annexed to the zone and shall set forth the measure to be submitted to the voters of such territory and shall designate the precincts, polling places and election officers for such election and state the times between which the polls shall be open. The order shall be published pursuant to Section 6066 of the Government Code. This order shall be entered in the minutes and is conclusive evidence of a due presentation of a proper petition, and of the fact that each of the petitioners was, at the time of the signing and presentation of the petition, qualified to sign.

(E) The election shall be held and conducted as provided in Chapter 1 (commencing with section 22000) of Part 1 of Division 12

of the Elections Code and sample ballots and polling place cards shall be mailed as provided in section 10012 of the Elections Code. If a majority of the votes in the territory proposed to be annexed at an election called therein by the board for that purpose are in favor of the annexation, the clerk of the board shall make and cause to be entered in the minutes and endorsed on the petition an order approving the petition and the petition shall be filed. The entry is conclusive evidence of the fact and regularity of all prior proceedings of every kind required by law and of the facts stated in the entry. The board at its next regular meeting after the entry shall, by an order, alter the boundaries of the zone and annex to it the territory described in the petition. The order of the board is conclusive evidence of the validity of all prior proceedings leading up to the annexation and recited in the order, and from and after the order the territory is part of the zone. If, at the election, less a majority of the votes in a territory proposed to be annexed are in favor of the annexation of the territory to the zone, the signers of the petition shall, within 10 days after the canvassing of the votes of the election, pay to the board the reasonable cost of the election and, if not paid within 10 days, the board may sue on the bond to recover the cost of the election. If the result of the election is against annexation, the board shall, by order, disapprove the petition and enter the order in its minutes. No other proceeding shall be taken in relation thereto until the expiration of six months from the presentation of the petition, except to collect the costs of the election.

(2) (A) A petition for annexation without election signed by the owners of real property in the territory proposed to be annexed which real property represents at least 75 percent of the total assessed valuation of real property in the territory as shown by the last equalized county assessment roll, shall be presented to the board.

(B) The petition shall designate specifically the boundaries of the territory and the assessed valuation of real property therein as shown by the last equalized county assessment roll and shall show the amount of real property owned by each of the petitioners and its assessed valuation as shown by the last equalized county assessment roll. The petition shall ask that the territory be annexed to the zone. The petition shall be verified by the affidavit of one of the petitioners.

(C) The petition shall be published by petitioners at least two weeks preceding the hearing in a newspaper of general circulation published in the zone, if there is one, or, if not, in a newspaper of general circulation published in the agency. With the petition there shall be published a notice stating the number of signers of the petition, the time when the petition will be presented to the board and stating that all persons interested may appear and be heard. It shall not be necessary to publish the names of the signers. A printed copy of the petition and notice as so published shall be mailed pursuant to Sections 53520 to 53523, inclusive, of the Government Code.

(D) At the time designated the board shall hear the petition and any person interested, and may adjourn the hearing from time to time. Upon the hearing of the petition, the board shall determine whether or not it is in the best interests of the zone and the territory that the territory be annexed to the zone and the board may modify the boundaries of the territory proposed to be annexed as set forth in the petition by decreasing the area of the territory. If the board upon final hearing determines that it is in the best interests of the zone and of the territory proposed to be annexed that the territory be annexed, it shall make an order describing the boundaries of the territory proposed to be annexed and shall alter the boundaries of the zone and annex to it the territory described in the petition and the territory is then a part of the zone.

(3) A petition for annexation without election signed by 100 percent of the owners of real property in the territory proposed to be annexed may be presented to the board. The petition shall designate specifically the boundaries of the territory and shall ask that the territory be annexed to the zone. The petition shall be verified by the affidavit of one of the petitioners. The board shall determine, upon reviewing the petition, whether or not it is in the best interest of the zone and the territory that the territory be annexed to the zone. The board may modify the boundaries of the territory proposed to be annexed as stated in the petition by decreasing the area of the territory. If the board determines that it is in the best interest of the zone and of the territory proposed to be annexed that the territory be annexed, the board shall make an order describing the boundaries of the territory proposed to be annexed and shall alter the boundaries of the zone and annex to it the territory described in the petition, and the territory is then a part of the zone.

(4) No petition or request for annexation pursuant to paragraphs (1) to (3), inclusive, may be accepted by the board if a zone annexation petition involving any of the same territory is pending before it for annexation to the same zone.

(5) An order for annexation may be by ordinance or resolution. Whenever any new territory is annexed to a zone, the territory thereupon becomes subject to all the liabilities and entitled to all the benefits of the zone. Any order for annexation may provide for, or be made subject to, the payment of a fixed or determinable amount of money for the acquisition, transfer, use, or right of use of all or any part of the existing property, real or personal, of the zone. The board may provide that payment of the amounts shall be either: (1) in lump sums or (2) in semiannual installments with interest thereon at a rate not to exceed 12 percent over a period not to exceed 10 years beginning on July 1 following the next succeeding March 1. If the payment is in semiannual installments, the board shall provide in the ordinance that the total of each sum to be paid by each parcel shall constitute a lien on the parcel as of noon on the next succeeding March 1, the same as the lien for general agency and zone taxes; that the semiannual installments shall be paid and collected at the same

time and in the same manner and by the same persons as, and together with and not separately from, general agency and zone taxes and shall be delinquent at the same time and thereafter subject to the same delinquency penalties; and that all laws applicable to the levy, collection and enforcement of general agency and zone taxes, including, but not limited to, those pertaining to delinquency, correction, cancellation, refund and redemption shall be applicable to such installments.

SEC. 2.14. Section 45 of the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990) is amended to read:

Sec. 45. The board shall appoint a task force to recommend a water allocation formula for urban and agricultural areas in the county that are not within the jurisdiction of the Monterey Peninsula Water Management District and the Pajaro Valley Water Management Agency. An urban allocation formula is necessary to preserve agricultural access to an adequate water supply and to preserve agriculture as a mainstay of the Salinas Valley economy. The task force shall made the recommendation to the agency on or before January 1, 1992.

SEC. 3. Section 46 of the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990) is amended and renumbered to read:

Sec. 90. This act, and every part thereof, shall be liberally construed to promote the objects thereof, and to carry out its intents and purposes.

SEC. 4. Section 47 of the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990) is amended and renumbered to read:

Sec. 91. If any provision of this act, or the application thereof to any person or circumstance, is held invalid, the remainder of the act, or the application of these provisions to other persons or circumstances, shall not be affected thereby.

SEC. 5. Section 48 is added to the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

Sec. 48. The agency shall be governed by a board of directors, appointed pursuant to Section 49, consisting of nine members. The directors shall be residents of the county and shall have backgrounds and experience that indicate a high level of interest or expertise in areas relating to the agency's work.

SEC. 6. Section 49 is added to the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

Sec. 49. (a) (1) Five directors shall be appointed, one each by each member of the board of supervisors.

(2) For purposes of paragraph (1), the supervisors shall consider appointments of persons with experience relating to any of the following:

(A) Municipal or small water agencies not regulated by the Public Utilities Commission.

(B) Resource conservation districts.
(C) Environmental protection organizations.
(D) Industry and building trade representatives.
(E) Agricultural organizations.

(3) The board of supervisors shall also consider appointments of persons from the public.

(b) Four directors shall be appointed by a majority vote of the supervisors from nominees submitted by the following groups or organizations:

(1) One director from a list of two nominees provided by the Monterey County Farm Bureau, who has a background in agricultural production.

(2) One director from a list of two nominees provided by the Grower-Shipper Vegetable Association of Central California, who has a background in agricultural production.

(3) One director from a list of two nominees provided by the mayor's select committee, who has a background in city government within the territory of the agency.

(4) One director from a list of two nominees provided by the Monterey County Agricultural Advisory Committee. The Monterey Agricultural Advisory Committee shall consider possible nominations from all areas of agriculture not represented by the organizations described in paragraphs (1) to (3), inclusive, such as flower growers' associations, cattlemens' associations, wine grape growers' associations, and independent growers.

(c) No person shall be appointed pursuant to this section who, because of his or her employment or other financial interest, is likely to be disqualified from a substantial number of decisions to be made by the board of the agency on the basis of conflict-of-interest requirements.

SEC. 7. Section 50 is added to the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

Sec. 50. (a) The term of office for each director shall be four years, except as provided in subdivision (b). Directors shall serve until their successors are appointed and take office. Directors may be reappointed at the end of their terms.

(b) The terms of office of the directors shall be staggered. Directors who are appointed initially shall serve as follows:

(1) Three directors shall have two-year terms.
(2) Three directors shall have three-year terms.
(3) Three directors shall have four-year terms.
(4) The initial directors shall draw lots to determine the length of each director's initial term.

SEC. 8. Section 51 is added to the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

Sec. 51. (a) A vacancy occurs among the directors when a director resigns or dies, or if the office is declared vacant by the supervisors, on the recommendation of a majority of the directors due to the incumbent director's incapacity or failure to attend

meetings.

(b) A vacancy shall be filled by appointment in the same manner as the appointment of the previous holder of the office. The person appointed to replace a director shall serve for the remainder of the original term, and may thereafter be reappointed or not, as the appointing authority may decide.

SEC. 9. Section 52 is added to the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

Sec. 52. (a) The directors shall advise the board of supervisors on all matters relating to the agency within the scope of the supervisors' duties. No action shall be taken by the board of supervisors relating to the agency without seeking or obtaining a recommendation from the directors.

(b) Subdivision (a) does not apply to actions taken in connection with an emergency declared by the board of supervisors that requires immediate action and there is insufficient time to obtain a recommendation from the directors. The board of supervisors shall give reasonable advance notice to the directors of any meeting at which an emergency declaration relating to the agency will be considered by the supervisors.

SEC. 10. Section 53 is added to the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

Sec. 53. The directors shall establish long-term and short-term policy objectives for the agency, subject to review by the board of supervisors, and shall oversee the work of the agency to ensure that the objectives established are diligently pursued. The policy objectives shall be consistent with the Monterey County General Plan and its implementing ordinances.

SEC. 11. Section 54 is added to the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

Sec. 54. The directors shall, with the assistance of staff, do all of the following:

(a) Prepare an annual budget for the agency.

(b) Hold public hearings on the proposed budget.

(c) After approval of the budget by the directors, submit the budget to the supervisors for its adoption.

SEC. 12. Section 55 is added to the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

Sec. 55. The directors shall have primary, but not exclusive, responsibility for initiating and developing all proposals affecting the work of the agency.

SEC. 13. Section 56 is added to the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

Sec. 56. The directors shall approve, and the chairperson of the directors shall execute, all contracts of the agency when authorized by this act or by the board of supervisors. All existing provisions of law relating to agency contracts, including, but not limited to, advertising, bidding, awarding, and managing contracts, shall govern the actions of the directors.

SEC. 14. Section 57 is added to the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

Sec. 57. (a) Except as otherwise provided, the directors may approve all contracts for which funds have been budgeted by the agency.

(b) All contracts approved by the directors shall be approved as to form by the county counsel and as to fiscal provisions by the county administrative office.

SEC. 15. Section 58 is added to the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

Sec. 58. The purchasing agent for the county shall be an ex officio purchasing agent for the agency. The supervisors may grant to the purchasing agent the same authority to execute contracts on behalf of the agency as it has to execute contracts on behalf of the county. The general manager may submit to the directors for approval any contract within the purchasing agent's authority, and shall submit any such contract to the directors upon their request.

SEC. 16. Section 60 is added to the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

Sec. 60. All contracts for which funds have not previously been budgeted by the agency shall be approved by the board of supervisors and executed by the chairperson of the board of supervisors, subject to approval as to form by the county counsel and as to fiscal provisions by the county administrative office.

SEC. 17. Section 60.1 is added to the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

Sec. 60.1. All contracts involving the lease of agency land to the county for recreational use shall be approved, modified, terminated, or administered by the board of supervisors, unless the supervisors, by ordinance, grant this authority to the directors.

SEC. 18. Section 61 is added to the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

Sec. 61. (a) The directors shall, in consultation with the county personnel director, establish procedures for the recruitment and hiring of the general manager of the agency, subject to approval by the board of supervisors. The procedures shall include at least all of the following requirements:

(1) The county personnel department shall review and screen all applications.

(2) The directors shall interview the candidates who pass the screening by the personnel department, and shall recommend at least two candidates to the supervisors.

(3) The board of supervisors shall make the final selection. The board of supervisors may select one of the candidates referred by the directors or may reject all candidates and direct that the process be repeated.

(b) The board of supervisors retain the authority to terminate the general manager. Prior to terminating the general manager, the board of supervisors shall consider the recommendations of the

directors.

SEC. 19. Section 62 is added to the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

Sec. 62. The directors shall prepare an annual performance evaluation of the general manager. The county administrative office shall prepare a format for the evaluation. At the beginning of each evaluation period, the directors and the general manager shall develop a set of agency objectives for the year ahead. The evaluation shall include an assessment of the performance of the general manager in relation to these objectives. A copy of the evaluation shall be sent to the supervisors.

SEC. 20. Section 63 is added to the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

Sec. 63. (a) The board of supervisors shall grant to the directors the duties relating to personnel matters of the agency, subject to memoranda of understanding entered into by employee organizations and the board of supervisors.

(b) All planning and budgeting matters relating to agency staffing requirements shall be considered by the directors before referral to the supervisors.

SEC. 21. Section 64 is added to the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

Sec. 64. (a) The directors shall meet on a regular basis, not less than once per month, at a regular meeting place to be determined by the directors.

(b) All meetings shall be conducted pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Division 2 of Title 5 of the Government Code) and Robert's Rules of Order. The procedures set forth in Robert's Rules of Order may be modified by resolution of the directors or by amendment to the bylaws of the agency.

SEC. 22. Section 65 is added to the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

Sec. 65. The directors shall hold public hearings and shall consider testimony by the public on all matters concerning the agency's activities for which public hearings are required by law.

SEC. 23. Section 66 is added to the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

Sec. 66. The directors shall adopt bylaws for the conduct of their business and shall establish standing committees comprised of board members.

SEC. 24. Section 67 is added to the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

Sec. 67. The directors may establish and appoint advisory committees to assist the agency in any aspect of its work, any may prescribe the qualifications for membership on the advisory committees. The members of the advisory committees need not be directors.

SEC. 25. Section 68 is added to the Monterey County Water

Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

Sec. 68. The directors shall not delegate to any standing or advisory committee any authority other than the authority to advise the board members.

SEC. 26. Section 69 is added to the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

Sec. 69. The directors shall exercise those agency powers not reserved to the supervisors.

SEC. 27. Section 70 is added to the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

Sec. 70. The board of supervisors, and not the directors, may take any of the following actions:

(a) Adopt agency ordinances.

(b) Create zones.

(c) Levy assessments or taxes, impose fees, charges or tolls, authorize bonds, or borrow money.

(d) Authorize projects that involve the creation of zones or the institution of any financing measures.

(e) Adopt an agency budget.

SEC. 28. Section 71 is added to the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

Sec. 71. (a) The board of supervisors are responsible for the initiation and the conduct of any litigation by the agency and for the settlement of any litigation.

(b) The directors or general manager shall refer all matters with respect to which litigation is likely to the board of supervisors.

(c) The chairperson of the directors, or his or her designee, may be present during a closed session held by the board of supervisors to consider matters pertaining to litigation affecting the agency.

SEC. 29. Section 73 is added to the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

Sec. 73. (a) The general manager shall report to the board of supervisors in a timely manner concerning all actions taken by the board members. Copies of all agendas and minutes of meetings of the directors shall be provided to the board of supervisors in a timely manner, to ensure communication between the board of supervisors and the directors.

(b) The agency shall prepare a quarterly report, which shall be approved by the directors, and a copy of the report shall be submitted to the board of supervisors. The directors shall make an oral presentation of its report to the board of supervisors at a supervisors' meeting.

(c) Any decisions by the directors which may have a significant impact on agency operations, policies, and practices shall be discussed with the supervisors, prior to implementation. Major policy changes having community-wide impact shall be communicated to the supervisors for review and concurrence, prior to implementation.

SEC. 30. Section 74 is added to the Monterey County Water

Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

Sec. 74. The general manager shall report to the directors in a timely manner concerning all actions taken by the board of supervisors regarding the work of the agency. The clerk of the board of supervisors shall provide to the directors in a timely manner copies of all agendas, minutes, ordinances, and resolutions of the supervisors relating to the agency.

SEC. 31. Section 75 is added to the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

Sec. 75. The board of supervisors and directors shall hold a joint meeting semiannually.

SEC. 32. Section 76 is added to the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

Sec. 76. If any ordinance, resolution, or regulation of the agency provides for an appeal from any administrative or enforcement decision made by the agency or its staff, the appeal shall be heard by the directors, unless a different procedure is established by law, ordinance, or contract.

SEC. 33. Section 77 is added to the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

Sec. 77. The directors shall adopt rules and regulations relating to public notice requirements for, and the conduct of, a hearing held pursuant to an appeal.

SEC. 34. Section 80 is added to the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

Sec. 80. The decision of the directors on any appeal shall be final, and there shall be no appeal from the decision to the supervisors.

SEC. 35. Section 81 is added to the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

Sec. 81. (a) There shall be no appeal to the board of supervisors from any decision by the directors on any matter, unless the appeal is permitted by ordinance or by other law.

(b) For purposes of subdivision (a), the referral of any matter to the board of supervisors by directors or the general manager, on their own initiative or at the request of the supervisors, if the board of supervisors has final decisionmaking authority or the duty to advise or give consent, is not an appeal.

SEC. 36. Section 82 is added to the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

Sec. 82. Actions and decisions of the agency, whether by the board of supervisors, the directors, or others acting on behalf of the agency, are subject to judicial review as provided by existing law.

SEC. 37. Section 83 is added to the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

Sec. 83. The directors may request, and shall receive, the assistance of county staff, as required, for the conduct of their business. An attorney representing the county counsel shall be present to advise the directors at their regular and special meetings.

SEC. 38. Section 84 is added to the Monterey County Water

Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

Sec. 84. On or after January 1, 1995, the board of supervisors and the directors shall hold one or more joint meetings to study the effectiveness of the governance of the agency by the directors and the supervisors.

SEC. 39. Section 85 is added to the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

Sec. 85. (a) The Pajaro Valley Water Management Agency and the Monterey Peninsula Water Management District shall work with the agency and shall use their best efforts to cooperate with each other.

(b) The agency, the Monterey Peninsula Water Management District, and the Pajaro Valley Water Management Agency shall, on or before February 1, 1992, make a good faith effort to enter into a memorandum of agreement as to the manner in which the agency shall exercise powers in any area of overlapping jurisdiction among the three local water entities.

SEC. 40. Section 86 is added to the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), to read:

Sec. 86. This act does not alter the authority of the Monterey Peninsula Water Management District or the Pajaro Valley Management Agency.

SEC. 41. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

SEC. 42. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to facilitate the management of water resources in Monterey County at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1131

An act to add Title 5.7 (commencing with Section 4760) to Part 5 of Division 4 of the Civil Code, relating to family law.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Title 5.7 (commencing with Section 4760) is added to Part 5 of Division 4 of the Civil Code, to read:

TITLE 5.7. CHILD SUPPORT PILOT PROJECTS

4760. The Legislature finds and declares that child support is a serious legal obligation, a fundamental, affirmative duty that all parents owe to their children. The current system for obtaining temporary child support orders is at times arbitrary, time consuming, intimidating, expensive, and unnecessarily complex.

The Legislature further finds and declares that there is a compelling state interest in the development of a child support system which is cost-effective and accessible to parents with middle or low incomes. The Legislature further finds and declares that there is a compelling state interest in first implementing such a system on a small scale.

Therefore, it is the intent of the Legislature in enacting this title to provide a means for experimenting with and evaluating procedural innovations with significant potential to improve the California child support system.

4761. The superior courts of the County of Santa Clara and the County of San Mateo may conduct pilot projects pursuant to this title.

4762. The duration of the pilot projects shall be two years.

4763. (a) Within the counties participating in the pilot projects, all motions for temporary child support and other temporary orders specified in subdivision (b) shall be filed, heard, and determined as provided in this title, except that any action may be withdrawn from the provisions of this title by order of the court for good cause, either upon motion by any party or upon the court's own motion. Where the court determines that extreme hardship would accrue to any party from participation in the pilot project and the alternative of complying with an order for advance of the other party's attorney's fees under paragraph (2) of subdivision (b) of Section 4766, the court may, in its discretion, order the proceedings to be conducted outside the pilot project and exempt from the requirement of paragraph (2) of subdivision (b) of Section 4766.

(b) The pilot projects conducted pursuant to this title shall apply to hearings on motions for temporary child support or any other temporary order issuable in proceedings under this part or Part 7 (commencing with Section 7000) of this code or under Chapter 4 (commencing with Section 540) of Title 7 of Part 2 of the Code of Civil Procedure.

4764. (a) Except as provided in subdivision (d) of Section 4766:

(1) Nothing in this title shall be construed to apply to a child for whom services are provided or are required to be provided by a district attorney pursuant to Section 11475.1 of the Welfare and Institutions Code.

(2) The court shall not hear or enter any order under this title in a matter involving such a child.

(b) Any order entered contrary to the provisions of subdivision (a) shall be void and without legal effect.

4765. Motions for temporary orders under this title shall be heard

as soon as practicable, consistent with the rules governing other civil actions.

4766. Except as provided by subdivision (b), no attorney or person other than the parties shall participate in proceedings under this title, unless the attorney is a party or has been appointed by the court to represent a child.

(b) (1) All parties to proceedings under this title may agree that each will be represented by an attorney, in which case the hearing will not proceed as a part of the pilot project under this title.

(2) If one party to an action for temporary child support or another temporary order specified in subdivision (b) of Section 4763 chooses to be represented by an attorney, thereby opting out of the pilot project under this title, and the other party does not choose to be represented by an attorney, thereby opting to participate in the pilot project, the court shall require the party desiring representation by an attorney to advance reasonable attorney's fees to the other party so that the other party may also retain counsel. If the attorney's fees are so advanced, then the hearing shall not proceed under the pilot project, but if the attorney's fees are not so advanced, then the hearing shall proceed under the pilot project, with neither party represented by counsel.

(3) The court shall retain jurisdiction to order reimbursement of fees and costs at the end of the proceeding.

(c) Nothing in this section shall be construed to prohibit an attorney from advising a party to the proceeding, either before or after the commencement of the proceeding.

(d) For purposes of enabling a custodial parent receiving assistance under Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code to participate in a pilot project authorized by this title, the district attorney, upon the request of the custodial parent, may execute a limited waiver of the obligation of representation under Section 11475.1 of the Welfare and Institutions Code. These limited waivers shall be signed by both the district attorney and custodial parent and shall only permit the custodial parent to participate in the proceedings under this title. It is not the intent of the Legislature in enacting this section to limit the duties of district attorneys with respect to seeking child support payments or to in any way limit or supersede other provisions of this part respecting temporary child support.

4767. (a) Child support advisors shall be available to assist parties in the preparation of all paperwork pursuant to this title, including, but not limited to, motions, responsive pleadings, and income and expense declarations. The court shall provide these advisors at no cost to the parties.

(b) Prior to any hearing pursuant to this chapter, child support advisors shall review the paperwork required by the court and shall advise the judge whether or not the matter is ready to proceed.

(c) Child support advisors may be volunteers and may include law students and other trained individuals familiar with the relevant

statutes and forms.

(d) Child support advisors shall have quasi-judicial immunity.

4768. (a) Orders for temporary child support issued pursuant to this title shall comply with the uniform guidelines set forth in Title 5 (commencing with Section 4700) and shall be based on the economic evidence supplied by the parties or otherwise available to the court. These orders shall also include provisions for health insurance coverage pursuant to Section 4726.

(b) The courts shall calculate child support orders based on standardized formulae accessed through existing computer programs.

4769. An informational publication describing the simplified procedures in effect in the counties included in the pilot project shall be prepared and distributed therein by the superior court in those counties.

4770. (a) A motion filed under this title requesting temporary child support or another temporary order shall include all of the following:

(1) A proposed order.

(2) An income and expense declaration of the moving party, in the form adopted by the Judicial Council.

(3) A declaration, under penalty of perjury, that the facts on which the motion is based are true and correct.

(4) The following, as applicable:

(A) In the case of a motion requesting temporary child support, a child support calculation in the form of a computer printout, which the moving party shall obtain upon conferring with the child support advisor.

(B) In the case of a motion requesting temporary order other than for child support, a statement of facts in support of the motion.

(b) The moving party shall obtain a hearing date and shall cause the notice of motion, the proposed order, the child support calculation, and the accompanying documents to be served on the party from whom support is requested.

(c) The responding party shall have 15 days from the date of service of the notice within which to confer with the child support advisor and file an objection. The objection and request shall be accompanied by an income and expense declaration in the form adopted by the Judicial Council. If the responding party files an objection and request for a hearing, he or she shall be responsible for requesting a hearing date and giving notice thereof to the moving party. The original proof of service of the notice of the objection and request shall be filed at the same time as the filing of the objection and the request for a hearing.

(d) Notice pursuant to this section shall be by personal service.

(e) Where it appears from a party's application for an order under this title or otherwise in the proceedings that the custody of, or visitation with, a minor child is contested, the court shall set those issues for mediation pursuant to Section 4607. The pendency of the

mediation proceedings shall not delay a hearing on any other matter for which a temporary order is requested, including child support, and a separate hearing, if required, shall be scheduled respecting the custody and visitation issues following mediation in accordance with Section 4607. However, the court may grant a continuance for good cause shown.

4771. (a) In a contested proceeding for temporary child support under this title, both the moving party and the responding party shall provide all of the following documents to the court at the time of the hearing:

(1) Copies of federal and state income tax returns for the preceding year.

(2) Paycheck stubs for all paychecks received in the four months immediately prior to the hearing.

(b) A party who fails to submit documents to the court as required by this section may not be granted the relief that he or she has requested.

(c) A tax return submitted pursuant to this section may be reviewed by the other party. A party may be examined by the other party as to the contents of such a tax return.

4772. The Senate Office of Research shall conduct a study of the effectiveness of the pilot projects in making the California child support system more equitable, responsive, cost-effective, and accessible, particularly to those with middle and low incomes, and shall make a report of its findings to the Legislature on or before July 1, 1994.

SEC. 2. (a) It is estimated for each county participating in the pilot program authorized by this act, that 4,000 litigants will be served annually, and that the following savings will occur:

(1) With an estimated 20 percent reduction over the current system, the county will save 178 hours per year of court time, or roughly 22 workdays per year.

(2) With an estimated cost savings in incomes of judges, court reporters, clerks, bailiffs, and sheriffs, the project is expected to save approximately twenty thousand one hundred fourteen dollars ($20,114) per year. Cases involving child support obligations which the district attorney's office was required to handle in one participating county, for the year 1989–90, number 2,461. The average time spent on a typical child support order is approximately five hours. There is a potential 12,500 man-hours a year that could be saved, resulting in a savings of three hundred sixty-seven thousand eight hundred seventy-five dollars ($367,875) a year in attorney salaries alone. This does not take into consideration costs for documents, filing, and other district attorney personnel.

(3) The average savings personally to litigants who otherwise would require private representation, would be from fifty dollars ($50) to two hundred fifty dollars ($250) per hour of court time and per hour of preparation work.

(b) The satisfaction of participating parties will be determined by

requiring that litigants entering the pilot project fill out a simple exit poll. The response of at least 70 percent of those questionnaires will be analyzed to decide whether the program has been deemed satisfactory by the participants.

(c) The estimated costs of the program will be as follows:

(1) No cost for computers, printers, and other equipment because they have been donated.

(2) No cost for training of child support advisors because the training has been donated.

(3) Training manuals for child support advisors and costs of exit polling. The manuals will be simple, brief, and inexpensive. The amount of material which the child support advisors will be required to learn via these manuals has been purposely minimized and simplified, allowing for participation of people with a broad variety of backgrounds. Publicity for generating interest in the volunteer programs will be achieved through local newspaper articles and newsletters. The exact cost projections are incalculable at this time, but will likely be less than five hundred dollars ($500) per pilot project.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1132

An act to amend Section 52501.5 of, and to add Section 52616.1 to, the Education Code, relating to adult education.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. (a) The Legislature declares its intent to ensure that surplus adult education average daily attendance apportionments set forth in subdivision (d) of Section 52616 shall be expended only for adult education purposes.

(b) Surplus adult education average daily attendance apportionments are subject to a reallocation process that may delay for up to a full calendar year the use of those funds for adult education purposes.

(c) These delays have at times caused school districts to apply the reallocated funds for purposes other than adult education despite

clear direction from the State Department of Education accompanying those reallocations of those surplus funds.

SEC. 2. Section 52501.5 of the Education Code is amended to read:

52501.5. (a) Except as provided in subdivision (b), no revenue derived from the average daily attendance of adult education programs shall be expended for other than adult education purposes, nor shall revenue derived from other average daily attendance be expended for adult education purposes.

(b) When a district's adult revenue limit as allowed by Section 52616 is composed of average daily attendance from both a regional occupational center or program and an adult education program, the adult revenue limit income may be allocated to each program in a proportion other than the amount of adult revenue limit per average daily attendance otherwise allocable thereto.

SEC. 3. Section 52616.1 is added to the Education Code, to read:

52616.1. (a) Each school district that receives funds reallocated pursuant to subdivision (d) of Section 52616 shall apply those funds exclusively to its adult education program.

(b) The Superintendent of Public Instruction annually, and in a timely manner, shall notify each school district that receives funds reallocated pursuant to subdivision (d) of Section 52616 and each director of the adult education programs for that school district that those reallocated funds are to be used exclusively for adult education as specified in subdivision (d) of Section 52616.

CHAPTER 1133

An act to amend Sections 19549.2 and 19571 of the Business and Professions Code, relating to horseracing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 14, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 19549.2 of the Business and Professions Code is amended to read:

19549.2. From the weeks available for harness and quarter horse racing pursuant to subdivision (d) of Section 19531, the board may allocate a maximum of 12 weeks of harness racing to the 22nd District Agricultural Association to be conducted on the 22nd District Agricultural Association grounds. The racing shall be conducted by a person other than the 22nd District Agricultural Association.

SEC. 2. Section 19571 of the Business and Professions Code is amended to read:

19571. No horserace authorized by the board, except the last

scheduled race of any racing day, may be commenced after 12:30 a.m on the next calendar day.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that this act may be implemented during the 1991 racing season, to maximize racing opportunities and license fee revenues for the state of California, it is necessary that this act take effect immediately.

CHAPTER 1134

An act to amend Sections 1265.5, 2627.5, 2656, and 2675 of, to amend, repeal, and add Section 2627.7 of, to add Section 2706.2 to, and to repeal and add Section 2708 of, the Unemployment Insurance Code, relating to unemployment insurance, and making an appropriation therefor.

[Approved by Governor October 14, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 1265.5 of the Unemployment Insurance Code is amended to read:

1265.5. Notwithstanding any other provision of this division, payments to an individual for vacation pay which was earned but not paid for services performed prior to termination of employment shall not be construed to be wages or compensation for personal services under this division and benefits payable under this division shall not be denied or reduced because of the receipt of these payments.

SEC. 2. Section 2627.5 of the Unemployment Insurance Code is amended to read:

2627.5. (a) If an individual, pursuant to orders of his or her physician, is confined in a hospital for at least one day, any unexpired full days of the waiting period required by subdivision (b) of Section 2627 shall be waived. This subdivision shall apply to an individual's confinement in a nursing home as defined by subparagraph (B) of paragraph (4) of subdivision (b), but only if immediately prior to that confinement he or she was confined in a hospital (other than a nursing home) for not less than 15 consecutive days pursuant to the orders of his or her physician or confined to the nursing home by order of a physician, where the nursing home is used where an individual's disability requires immediate hospitalization and a bed is unavailable in a hospital (other than a nursing home). The department may use any means it deems reasonable to obtain or verify the information required by this paragraph.

(b) As used in this section:

(1) "Confined" means a registered bed patient.

(2) "Day" means any 24-hour period of time during which the claimant is in a hospital, or any 24-hour period or any part thereof for which a hospital charges a patient a full day's rate.

(3) "Full day's rate" means the regular and customary daily charge for board and room by the hospital.

(4) "Hospital" means:

(A) Within the State of California, any institution which is any of the following:

(i) Licensed by the State Department of Health Services as a general acute care hospital, chemical dependency recovery hospital or specialized hospital.

(ii) Operated as a hospital but exempt from licensing by the State Department of Health Services under subdivision (a) of Section 1270 of the Health and Safety Code.

(iii) Operated as a mental hospital licensed by the State Department of Health Services which is primarily intended for, staffed and equipped to provide for the reception, care, diagnosis and treatment of acute mental and nervous diseases.

(B) Within the states of the United States, any institution operated as a "nursing home" which is any of the following:

(i) An extended care facility as defined in subsection (j) of Section 1395x of Title 42 of the United States Code.

(ii) Conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of the church or denomination.

(C) Outside the State of California, any institution in other states or foreign countries, or in the territories or possessions of any country which is any of the following:

(i) Licensed as a hospital pursuant to the statutes or laws of that state or foreign country, or a territory or possession of a country.

(ii) Operated pursuant to law with organized facilities for diagnosis and surgery, and 24-hour nursing service for the care and treatment of sick and injured persons, if the state or foreign country, or the territory or possession of the country does not have statutes or laws concerning the requirements for licensing hospitals.

(D) Any institution which is operated as a hospital by the United States government or a duly authorized agency thereof.

(5) "Orders of his or her physician" means court order or physician's or health officer's certificate or order of a physician as defined in Section 3209.3 of the Labor Code or order of a practitioner duly authorized by any bona fide church, sect, denomination or organization whose principles or teachings call for dependence for healing entirely upon prayer or spiritual means or order of a duly authorized medical officer of any facility of the United States government or order of any member of any one of the professions

enumerated in Section 3209.3 of the Labor Code duly licensed by and practicing within the scope of the license in any state outside this state or in any foreign country, or in a territory or possession of any country.

(c) The amendments made to this section by the act adding this subdivision shall apply to periods of disability commencing on or after January 1, 1992.

SEC. 3. Section 2627.7 of the Unemployment Insurance Code is amended to read:

2627.7. (a) If an individual, pursuant to orders of his or her physician, receives treatment in a hospital surgical unit or a surgical clinic which requires a stay of less than 24 hours, any unexpired full days of the waiting period required by subdivision (b) of Section 2627 shall be waived, provided the individual is disabled for a period of eight days or more during the disability benefit period as a result of the treatment. The department may use any means it deems reasonable to obtain or verify the information required by this paragraph.

(b) As used in this section:

(1) "Hospital" means:

(A) Within the State of California, any institution which is licensed as a general hospital by the State Department of Health Services under Section 1253 of the Health and Safety Code.

(B) Outside the State of California, any institution in another state or foreign country, or in a territory or possession of any country, which is either:

(i) Licensed as a hospital pursuant to the statutes or laws of that state, foreign country, or territory or possession of any country.

(ii) Operated pursuant to law with organized facilities for the care and treatment of sick and injured persons, if that state, foreign country, or territory or possession of any country does not have statutes or laws concerning requirements for licensing hospitals.

(C) Any institution operated as a hospital by the United States government or a duly authorized agency thereof.

(2) "Surgical clinic" means a clinic which is not a part of and not operating under the license of a hospital, which is licensed by the State Department of Health Services under Section 1205 of the Health and Safety Code or is exempt from licensing under subdivision (b), (c), (d), or (f) of Section 1206 of that code, and which provides treatment for patients who remain less than 24 hours. A surgical clinic does not include the offices of private physicians as defined in Section 3209.3 of the Labor Code in individual or group practice.

(3) "Surgical unit" means a unit located in or operating under the license of a hospital and providing treatment for patients who remain less than 24 hours.

(4) "Orders of his or her physician" means a court order or physician's or health officer's certificate or order of a physician as defined in Section 3209.3 of the Labor Code or order of a duly

authorized medical officer of any facility of the United States government or order of any member of any one of the professions enumerated in Section 3209.3 of the Labor Code duly licensed by and practicing within the scope of such license in any state outside this state or in any foreign country, or in a territory or possession of any country.

(c) The amendments made to this section by the act adding this subdivision shall apply to periods of disability commencing on or after January 1, 1992.

SEC. 3.5. Section 2627.7 of the Unemployment Insurance Code is amended to read:

2627.7. (a) If an individual, pursuant to orders of his or her physician, receives treatment in a hospital surgical unit or a surgical clinic which requires a stay of less than 24 hours, or receives treatment in an institution that operates under the auspices of a postsurgical recovery care pilot designation pursuant to Section 1250.9 of the Health and Safety Code, any unexpired full days of the waiting period required by subdivision (b) of Section 2627 shall be waived, provided the individual is disabled for a period of eight days or more during the disability benefit period as a result of the treatment. The department may use any means it deems reasonable to obtain or verify the information required by this section.

(b) As used in this section:

(1) "Hospital" means:

(A) Within the State of California, any institution which is licensed as a general hospital by the State Department of Health Services under Section 1253 of the Health and Safety Code or licensed by the State Department of Health Services as a general acute care hospital, as defined in Section 1250 of the Health and Safety Code.

(B) Outside the State of California, any institution in another state or foreign country, or in a territory or possession of any country, which is either:

(i) Licensed as a hospital pursuant to the statutes or laws of that state, foreign country, or territory or possession of any country.

(ii) Operated pursuant to law with organized facilities for the care and treatment of sick and injured persons, if that state, foreign country, or territory or possession of any country does not have statutes or laws concerning requirements for licensing hospitals.

(C) Any institution operated as a hospital by the United States government or a duly authorized agency thereof.

(2) "Surgical clinic" means a clinic which provides treatment for patients who remain less than 24 hours, is not a part of and does not operate under the license of a hospital, and is any of the following:

(A) Licensed by the State Department of Health Services under paragraph (1) of subdivision (b) of Section 1204 of the Health and Safety Code, or under Section 1205 of the Health and Safety Code.

(B) Exempt from licensing under subdivision (b), (c), (d), (f), or (i) of Section 1206 of the Health and Safety Code.

(C) Certified to participate in the federal Medicare program as an "ambulatory surgical center" as defined in Section 416.2 of Title 42 of the Code of Federal Regulations.

For purposes of this section, a surgical clinic does not include the offices of private physicians as defined in Section 3209.3 of the Labor Code in individual or group practice.

(3) "Surgical unit" means a unit located in or operating under the license of a hospital and providing treatment for patients who remain less than 24 hours.

(4) "Orders of his or her physician" means a court order or physician's or health officer's certificate or order of a physician as defined in Section 3209.3 of the Labor Code or order of a duly authorized medical officer of any facility of the United States government or order of any member of any one of the professions enumerated in Section 3209.3 of the Labor Code duly licensed by and practicing within the scope of such license in any state outside this state or in any foreign country, or in a territory or possession of any country.

(c) The amendments made to this section by the act adding this subdivision shall apply to periods of disability commencing on or after January 1, 1992.

(d) This section shall remain in effect only until January 1, 1995, and as of that date is repealed.

SEC. 3.7. Section 2627.7 is added to the Unemployment Insurance Code, to read:

2627.7. (a) If an individual, pursuant to orders of his or her physician, receives treatment in a hospital surgical unit or a surgical clinic which requires a stay of less than 24 hours, any unexpired full days of the waiting period required by subdivision (b) of Section 2627 shall be waived, provided the individual is disabled for a period of eight days or more during the disability benefit period as a result of the treatment. The department may use any means it deems reasonable to obtain or verify the information required by this section.

(b) As used in this section:

(1) "Hospital" means:

(A) Within the State of California, any institution which is licensed as a general hospital by the State Department of Health Services under Section 1253 of the Health and Safety Code or licensed by the State Department of Health Services as a general acute care hospital, as defined in Section 1250 of the Health and Safety Code.

(B) Outside the State of California, any institution in another state or foreign country, or in a territory or possession of any country, which is either:

(i) Licensed as a hospital pursuant to the statutes or laws of that state, foreign country, or territory or possession of any country.

(ii) Operated pursuant to law with organized facilities for the care and treatment of sick and injured persons, if that state, foreign

country, or territory or possession of any country does not have statutes or laws concerning requirements for licensing hospitals.

(C) Any institution operated as a hospital by the United States government or a duly authorized agency thereof.

(2) "Surgical clinic" means a clinic which provides treatment for patients who remain less than 24 hours, is not a part of and does not operate under the license of a hospital, and is any of the following:

(A) Licensed by the State Department of Health Services under paragraph (1) of subdivision (b) of Section 1204 of the Health and Safety Code, or under Section 1205 of the Health and Safety Code.

(B) Exempt from licensing under subdivision (b), (c), (d), (f), or (i) of Section 1206 of the Health and Safety Code.

(C) Certified to participate in the federal Medicare program as an "ambulatory surgical center" as defined in Section 416.2 of Title 42 of the Code of Federal Regulations.

For purposes of this section, a surgical clinic does not include the offices of private physicians as defined in Section 3209.3 of the Labor Code in individual or group practice.

(3) "Surgical unit" means a unit located in or operating under the license of a hospital and providing treatment for patients who remain less than 24 hours.

(4) "Orders of his or her physician" means a court order or physician's or health officer's certificate or order of a physician as defined in Section 3209.3 of the Labor Code or order of a duly authorized medical officer of any facility of the United States government or order of any member of any one of the professions enumerated in Section 3209.3 of the Labor Code duly licensed by and practicing within the scope of such license in any state outside this state or in any foreign country, or in a territory or possession of any country.

(c) This section shall apply to periods of disability commencing on or after January 1, 1995.

(d) This section shall become operative January 1, 1995.

SEC. 4. Section 2656 of the Unemployment Insurance Code is amended to read:

2656. (a) An individual eligible to receive disability benefits who receives wages or regular wages from his or her employer during the period of his or her disability shall be paid disability benefits for any seven-day week or partial week in an amount not to exceed his or her maximum weekly amount which together with the wages or regular wages does not exceed his or her weekly wage, exclusive of wages paid for overtime work, immediately prior to the commencement of his or her disability.

(b) For purposes of this section, to determine the wages or regular wages received by the eligible individual, the amount as stated by the individual shall be presumed to be accurate. This presumption is one affecting the burden of producing evidence.

(c) For purposes of periods of disability commencing on or after January 1, 1992, vacation pay is not considered wages for determining

eligibility for disability benefits.

SEC. 5. Section 2675 of the Unemployment Insurance Code is amended to read:

2675. (a) An individual shall be disqualified from receiving benefits under this part if he or she has willfully, for the purpose of obtaining benefits, either made a false statement or representation, with actual knowledge of the falsity thereof, or withheld a material fact in order to obtain any benefits under this part.

(b) An individual disqualified under subdivision (a) under a determination transmitted to him or her by the department, shall be ineligible to receive benefits from the date the disqualifying determination was issued and for not less than seven nor more than 35 subsequent days for which he or she is otherwise eligible for benefits under this part. When successive disqualifications under subdivision (a) occur, the director may extend the period of ineligibility for an additional period not to exceed 56 days.

(c) If all or any of the assessed days of ineligibility cannot be served because the individual is no longer otherwise eligible for benefits under this part, the assessed days of ineligibility shall be applied to any subsequent disability benefit period for which he or she is otherwise eligible for benefits. No disqualification under this subdivision shall be applied, however, to any day of eligibility which falls beyond the three-year period next succeeding the date upon which the determination was mailed or served by the department.

(d) The amendments made to this section by the act adding this subdivision shall apply to disqualifying determinations issued on or after January 1, 1992.

SEC. 6. Section 2706.2 is added to the Unemployment Insurance Code, to read:

2706.2. Any continued medical certification shall be submitted to the department within 20 days of the date the claimant is issued a notice of final payment or departmental request for additional medical certification. The 20-day time limit shall be extended by the department upon a showing of good cause.

SEC. 7. Section 2708 of the Unemployment Insurance Code is repealed.

SEC. 8. Section 2708 is added to the Unemployment Insurance Code, to read:

2708. (a) In accordance with the director's authorized regulations, and except as provided in Sections 2708.1 and 2709, a claimant shall establish medical eligibility for each uninterrupted period of disability by filing a first claim for disability benefits supported by the certificate of a treating physician or practitioner and for subsequent periods of uninterrupted disability after the period covered by the initial certificate or any preceding continued claim, by filing a continued claim for those benefits supported by the certificate of a treating physician or practitioner. The certificate shall contain a statement of medical facts within the physician's or practitioner's knowledge, his or her conclusion as to the claimant's

disability, and his or her opinion as to its duration.

(b) The first and any continuing claim of an individual who obtains care and treatment outside this state, shall be supported by a certificate of a treating physician or practitioner duly licensed or certified by the state or foreign country in which the claimant is receiving the care and treatment.

(c) For purposes of this part, the term "physician" has the same meaning as it does in Section 3209.3 of the Labor Code. For purposes of this part, "practitioner" means a person duly licensed or certified in California acting within the scope of his or her license or certification who is a dentist, podiatrist, or as to normal pregnancy or childbirth, a nurse-midwife or nurse-practitioner.

(d) For a claimant who is hospitalized in or under the authority of a county hospital in this state, a certificate of initial and continuing medical disability, if any, shall satisfy the requirements of this section if the disability is shown by the claimant's hospital chart, and the certificate is signed by the hospital's registrar. For a claimant hospitalized in or under the care of a medical facility of the United States government, a certificate of initial and continuing medical disability, if any, shall satisfy the requirements of this section if the disability is shown by the claimant's hospital chart, and the certificate is signed by a medical officer of the facility duly authorized to do so.

(e) Nothing in this section shall be construed to preclude the department from requesting additional medical evidence to supplement the first or any continued claim if the additional evidence can be procured without additional cost to the claimant. The department may require that the additional evidence include a statement as to the facts of the claimant's disability by the physician or practitioner treating the claimant, by the registrar, authorized medical officer, or other duly authorized official of the hospital or health facility treating the claimant, or by an examining physician or other representative of the department.

SEC. 9. Section 3.5 of this bill incorporates amendments to Section 2627.7 of the Unemployment Insurance Code proposed by both this bill and AB 1208. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 2627.7 of the Unemployment Insurance Code, and (3) this bill is enacted after AB 1208, in which case Section 3 of this bill shall not become operative.

SEC. 10. Section 3.7 of this bill incorporates changes to Section 2627.7 of the Unemployment Insurance Code proposed by both this bill and AB 1208. It shall become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill makes changes to Section 2627.7 of the Unemployment Insurance Code, and (3) this bill is enacted after AB 1208, in which case Section 3 of this bill shall not become operative.

CHAPTER 1135

An act to amend Sections 46000, 46002, 46003, 46003.5, 46004, 46009, and 46011 of, and to add Sections 46012 and 46013 to, the Food and Agricultural Code, and to amend Sections 26569.21, 26569.23, 26569.28, and 26569.30 of the Health and Safety Code, relating to food, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 46000 of the Food and Agricultural Code is amended to read:

46000. (a) The director and county agricultural commissioners under the supervision and direction of the director shall enforce the provisions of Article 4.5 (commencing with Section 26569.20) of Chapter 5 of Division 21 of the Health and Safety Code applicable to producers of food sold as organic, handlers of raw agricultural commodities sold as organic, and eggs sold as organic, handlers and processors of meat, fowl, and dairy products sold as organic, and retailers of food sold as organic.

(b) The director shall also enforce the provisions of Article 4.5 (commencing with Section 26569.20) of Chapter 5 of Division 21 of the Health and Safety Code applicable to certification organizations which certify food sold as organic under the enforcement jurisdiction of the director pursuant to subdivision (a).

(c) The director may adopt any regulations reasonably necessary to implement his or her enforcement responsibilities as specified in Article 4.5 (commencing with Section 26569.20) of Chapter 5 of Division 21 of the Health and Safety Code and this chapter.

SEC. 2. Section 46002 of the Food and Agricultural Code is amended to read:

46002. (a) Commencing on the effective date of the act which amended this section during the 1991 portion of the 1991–92 Regular Session of the Legislature, every person engaged in this state in the production or handling of raw agricultural commodities or eggs sold as organic, or in the production, handling, or processing of meat, fowl, or dairy products sold as organic, excluding retailers of food sold as organic, shall register with the agricultural commissioner in the county of principal operation prior to the first sale of the food, and shall thereafter annually renew the registration unless no longer engaged in the activities requiring the registration. Each registrant shall provide a complete copy of its registration to the agricultural commissioner in any county in which the registrant operates.

(b) Registration pursuant to this section shall be on a form provided by the department and shall be valid for a period of one calendar year from the date of validation by the department or

county agricultural commissioner of the completed registration form. The director shall make the forms available for this purpose commencing on the effective date of the act which amended this section during the 1991 portion of the 1991–92 Regular Session of the Legislature.

(c) The information provided on the registration form shall include all of the following:

(1) The nature of the registrant's business, including the specific commodities produced, handled, or processed which are sold as organic.

(2) For producers, a map showing the precise location and dimensions of the facility or farm where the commodities are produced. The map shall also describe the boundaries of the production area and all adjacent land uses, shall assign field numbers to distinct fields or management units, and shall describe the size of each field or management unit.

(3) Sufficient information, under penalty of perjury, to enable the director or county agricultural commissioner to verify the amount of the registration fee to be paid in accordance with subdivision (e).

(4) The names of all certification organizations or governmental entities, if any, providing certification pursuant to Sections 26569.30 to 26569.34, inclusive, of the Health and Safety Code.

(5) In the case of producers, for each field or management unit, a list of all substances applied to the crop, soil, growing medium, growing area, irrigation or postharvest wash or rinse water, or seed, including the source of the substance, the brand name, if any, the rate of application, and the total amount applied in each calendar year, for at least the applicable time periods specified in subdivision (a) of Section 26569.22 of the Health and Safety Code.

(d) The registration form shall include a separate "public information sheet" which shall include:

(1) The name and address of the registrant.

(2) The nature of the registrant's business, including the specific commodities produced, handled, or processed which are sold as organic.

(3) The names of all certification organizations or governmental entities, if any, providing certification pursuant to Sections 26569.30 to 26569.34, inclusive, of the Health and Safety Code.

(e) A registration form shall be accompanied by payment of a nonrefundable registration fee by producers, handlers, and processors, which shall be based on gross sales by the registrant of food sold as organic in the calendar year which precedes the date of registration, or if no sales were made in the preceding year, then based on the expected sales during the 12 calendar months following the date of registration, according to the following schedule:

Gross Sales	Registration Fee
$ 0 – 10,000	$ 25
$ 10,001 – 25,000	$ 75
$ 25,001 – 50,000	$ 100
$ 50,001 – 100,000	$ 175
$ 100,001 – 250,000	$ 300
$ 250,001 – 500,000	$ 450
$ 500,001 – 1,000,000	$ 750
$1,000,001 – 2,500,000	$1,000
$2,500,001 – 5,000,000	$1,500
$5,000,001 and above	$2,000

Notwithstanding the amounts specified in the above schedule, any person required to register pursuant to this section and who does so on or before June 30, 1992, shall pay an initial registration fee equal to one and one-half times the amount specified in the above schedule. Thereafter, the initial registration fee and the annual fee shall be as specified in the above schedule.

(f) To the extent feasible, the director shall coordinate the registration and fee collection procedures of this section with similar licensing or registration procedures applicable to registrants.

(g) The director or county agricultural commissioner shall reject a registration submission which is incomplete or not in compliance with this chapter and Article 4.5 (commencing with Section 26569.20) of Chapter 5 of Division 21 of the Health and Safety Code.

(h) A registrant shall immediately notify the director of any change in the information reported on the registration form and shall pay any additional fee owed if that change results in a higher fee owed than that previously paid.

(i) At the request of any person, the "public information sheet" described in subdivision (d) for any registrant shall be made available for inspection and copying at the main office of the department and each county agricultural commissioner. Copies of the "public information sheet" shall also be made available by mail, upon written request. The director or commissioner may charge a reasonable fee for the cost of reproducing a "public information sheet." Except as provided in this subdivision, a registration form is exempt from Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

(j) The requirements of this section shall not apply to retailers of food sold as organic.

SEC. 3. Section 46003 of the Food and Agricultural Code is amended to read:

46003. (a) The director shall establish an advisory board, which shall be known as the Organic Food Advisory Board, for the purpose of advising the director with respect to his or her responsibilities under this chapter and Article 4.5 (commencing with Section

26569.20) of Chapter 5 of Division 21 of the Health and Safety Code.

(b) The advisory board shall be comprised of 13 members. Six members shall be producers, at least one of whom shall be a producer of meat, fowl, fish, dairy products, or eggs. One member shall be a processor, one member shall be a handler or a retailer, two members shall be consumer representatives, one member shall be an environmental representative, and two members shall be technical representatives with scientific credentials related to agricultural chemicals, toxicology, or food science. Except for the consumer, environmental, and technical representatives, the members of the advisory board shall have derived a substantial portion of their business income, wages, or salary from the production, handling, processing, or retailing of food sold as organic for at least three years preceding their appointment to the advisory board. The consumer and environmental representatives shall not have a financial interest in the organic food industry and shall be representatives of recognized nonprofit organizations whose principal purpose is the protection of consumer health or protection of the environment. The technical representatives shall not have a financial interest in the organic food industry.

(c) The members of the advisory board described in subdivision (b) shall be reimbursed for the reasonable expenses actually incurred in the performance of their duties, as determined by the advisory board and approved by the director.

(d) The State Director of Health Services, or his or her representative, and a county agricultural commissioner shall be appointed as ex officio members of the advisory board.

SEC. 4. Section 46003.5 of the Food and Agricultural Code is amended to read:

46003.5. (a) On or before January 1, 1993, the director, in consultation with the Organic Food Advisory Board, shall adopt regulations listing specific substances which are in compliance or not in compliance with the definition of "prohibited materials," as defined in subdivision (p) of Section 26569.21 of the Health and Safety Code, for use in the production and handling of organic foods.

These regulations shall conform to any federal law or regulation governing materials allowed or disallowed for use on or in any food sold as organic to the greatest extent possible.

(b) Prior to adoption of these regulations, the director shall, by July 1, 1991, issue administratively a preliminary, nonexhaustive list of materials which are in compliance or not in compliance with subdivision (p) of Section 26569.21 of the Health and Safety Code based on the listings of permitted materials published by California Certified Organic Farmers, the Organic Foods Production Association of North America, and the Departments of Agriculture of the States of Oregon and Washington.

SEC. 5. Section 46004 of the Food and Agricultural Code is amended to read:

46004. (a) Any person may file a complaint with the director

concerning suspected noncompliance with this chapter or Article 4.5 (commencing with Section 26569.20) of Chapter 5 of Division 21 of the Health and Safety Code by a person under the enforcement jurisdiction of the director, as provided in Section 46000.

(b) The director shall, to the extent funds are available, establish procedures for handling complaints, including provision of a written complaint form, and procedures for commencing an investigation within three working days after receiving a complaint regarding fresh food, and within seven working days for other food, and completing an investigation and reporting findings and enforcement action taken, if any, to the complainant within 60 days thereafter.

(c) The director may establish minimum information requirements to determine the verifiability of a complaint, and may provide for rejection of a complaint which does not meet the requirements. The director shall provide written notice of the reasons for rejection to the person filing the complaint.

(d) The director shall carry out the functions and objectives of this chapter and Article 4.5 (commencing with Section 26569.20) of Chapter 5 of Division 21 of the Health and Safety Code, to the extent funds are available for those purposes.

SEC. 6. Section 46009 of the Food and Agricultural Code is amended to read:

46009. (a) Effective January 1, 1992, a nongovernmental certification organization which certifies raw agricultural commodities, eggs, meat, fowl, or dairy products sold as organic shall register with the director and shall thereafter annually renew the registration, unless the organization is no longer engaged in the activities requiring the registration. Registration shall be on a form provided by the director, shall include the filing of a certification plan as specified in Section 26569.33 of the Health and Safety Code, and payment of the fee specified in subdivision (b). The registration form shall contain the names of all persons involved in making certification decisions or setting certification standards for the certification organization. The director shall reject a registration submission that is incomplete or not in compliance with this chapter and Article 4.5 (commencing with Section 26569.20) of Chapter 5 of Division 21 of the Health and Safety Code. The director shall make forms available for this purpose on or before December 31, 1991.

(b) The director shall, to the extent funds are available, supervise all certification organizations registered with the director, establish a complaint procedure concerning noncompliance with this chapter or Article 4.5 (commencing with Section 26569.20) of Chapter 5 of Division 21 of the Health and Safety Code by certification organizations registered with the department, and establish and collect an annual registration fee of two thousand dollars ($2,000) per organization. Supervision shall include a written evaluation of the organization's certification plan at least biannually, which shall be made available for public inspection. The director may audit the organization's certification procedures and records at any time, but

any records of the certification organization not otherwise required to be disclosed shall be kept confidential by the director.

(c) Commencing October 31, 1991, the director and the county agricultural commissioners under the supervision of the director shall, if requested by a sufficient number of persons to cover the costs of the program in a county as determined by the director, establish a voluntary certification program for producers of organic food and processors of organic meat, fowl, and dairy products under the enforcement jurisdiction of the director. This program shall meet all of the requirements of Sections 26569.31 to 26569.34, inclusive, of the Health and Safety Code. The director shall establish a fee schedule for participants in this program which covers all of the department's reasonable costs of the program. A county agricultural commissioner that conducts a voluntary certification program pursuant to this section shall establish a fee schedule for participants in this program which covers all of the agricultural commissioner's reasonable costs of the program. The director may not expend funds obtained from registration fees collected under this chapter for the purposes of adopting or administering this program.

The certification fee authorized by this subdivision is due and payable on or before the 10th day of the month following the month in which the decision to grant the certification is issued. Any person who does not pay the amount that is due within the required period shall pay the enforcement authority providing the certificate a penalty of 10 percent of the total amount determined to be due plus interest at the rate of 1½ percent interest per month on the unpaid balance.

(d) This chapter applies to all food sold as organic within the state, wherever produced, handled, or processed, and to all food produced, handled, or processed in the state, wherever sold as organic, except that in lieu of registration under this chapter, the director may recognize a certification organization operating outside of the state which certifies raw agricultural commodities, eggs, meat, fowl, or dairy products if the director determines that the organization meets minimum standards substantially similar to those contained in subdivision (c) of Section 26569.30, and Sections 26569.32 to 26569.34, inclusive, of the Health and Safety Code. On or before January 1, 1992, the director shall establish, administratively, a procedure for organizations to apply and obtain recognition.

SEC. 7. Section 46011 of the Food and Agricultural Code is amended to read:

46011. (a) Except as provided by subdivision (c) of Section 46009, any fees and penalties collected by the director or any county agricultural commissioner pursuant to this chapter shall be deposited in the Department of Food and Agriculture Fund and, upon appropriation by the Legislature, shall be expended to fulfill the responsibilities of the director and county agricultural commissioner acting under the direction and supervision of the director as specified in this chapter. Any fees and penalties collected by a county

agricultural commissioner pursuant to subdivision (c) of Section 46009 shall be expended to fulfill the responsibilities of the county agricultural commissioner, as specified in this chapter.

(b) Any fees and penalties deposited in the Department of Food and Agriculture Fund pursuant to this section shall be used to cover the costs of carrying out the responsibilities specified in this chapter, including, but not limited to, providing reimbursement to counties for the reasonable costs incurred by the counties in the enforcement of this chapter.

SEC. 8. Section 46012 is added to the Food and Agricultural Code, to read:

46012. Article 14 (commencing with Section 43031) of Chapter 2 applies to any food product which is represented as organically produced by any person who is not registered as required by this chapter or any product which is not in compliance with this chapter or Article 4.5 (commencing with Section 26569.20) of Chapter 5 of Division 21 of the Health and Safety Code. The director, agricultural commissioners, and the State Director of Health Services shall be considered enforcing officers for purposes of those provisions of law under their respective jurisdiction.

SEC. 9. Section 46013 is added to the Food and Agricultural Code, to read:

46013. Any producer, handler, processor, or registered certification organization subject to this chapter that does not pay the fee within 10 days of the date on which the fee is due and payable shall pay a penalty of 10 percent of the total amount determined to be due plus interest at the rate of 1½ percent per month on the unpaid balance.

SEC. 10. Section 26569.21 of the Health and Safety Code is amended to read:

26569.21. The following words and phrases, when used in this article, shall have the following meanings:

(a) "Administered" means ingested, injected, or otherwise topically or internally introduced to livestock, fowl, or fish.

(b) "Applied" means introduced, incorporated within, added to, or placed upon any seed, crop, plant, livestock, fowl, fish, soil, or growing medium, and shall also mean used in, on, or around any facility or area in which food is kept.

(c) "Area" means the physical space surrounding food where there is more than a negligible chance of a prohibited material being absorbed by, incorporated into, or adhered to the food, soil, or growing medium. The area may differ significantly depending on the circumstances. Except in the case of the production of food, area shall not include any physical space surrounding food if an intervening event, such as the use of a cleaning method for processing equipment, or the passage of time, has made the chance of a prohibited material being absorbed by, incorporated into, or adhered to the food, negligible.

(d) "Botanicals" means substances derived solely from plants or

plant parts.

(e) "Endemic disease" means a disease in animal or fish which is either universal or common to a species within the geographic region.

(f) "Enforcement authority" means the governmental unit with primary enforcement jurisdiction, as provided in Section 26569.44.

(g) "Field" means a contiguous area of land for agricultural production which is managed with a consistent set of production methods.

(h) "Feed" means any substance used or intended for consumption by livestock, fowl, or fish to provide nourishment, including range and pasturage vegetation.

(i) "Growing medium" means a substance that provides nutrients for plants or fungi but which is separate from the land surface of the world.

(j) "Handled" means shipped, packed, repacked, sold for resale, warehoused, wholesaled, imported into the state, or stored by other than a grower, producer, processor, or retailer of that food.

(k) "Management unit" means the physical facilities and equipment associated with crop production which is not confined to a field, such as animal production, greenhouse production, or seed sprouting. Management units shall be described by the location and function of the physical facilities and equipment, and other aspects as determined by the enforcement authority. In the case of animal production, the management units shall also be described by the quantity and source of each group of animals that is managed together as a unit.

(*l*) "Processed" means cooking, baking, heating, drying, mixing, grinding, crushing, pressing, churning, separating, extracting juices or other materials, peeling, fermenting, eviscerating, preserving, dehydrating, freezing, or manufacturing which materially alters the flavor, keeping quality, or any other property, or the making of any substantial change of form. "Processed" does not include refrigeration at temperatures which are above the freezing point nor any other treatment which merely retards or accelerates the natural processes of ripening or decomposition.

(m) "Produced" means grown, raised, harvested, handled, or stored under the control of the grower or producer.

(n) "Producer," "handler," and "processor" means any person who has, respectively, produced, handled, or processed any food.

(o) "Production," "handling," and "processing" means the process by which any food is, respectively, produced, handled, and processed.

(p) "Prohibited materials" means any of the following:

(1) When used in connection with the production, handling, or processing of meat, fowl, or fish:

(A) Any drug, medication, hormone or growth regulator, whether or not synthetic, or any other synthetic substance, including, but not limited to, any substance administered to stimulate or regulate

growth or tenderness, and any subtherapeutic dose of antibiotic. The use of a drug or medication for medical treatment of a specific and manifest malady diagnosed and prescribed by a licensed veterinarian, or under the general supervision of a licensed veterinarian, shall be permitted, but not within 90 days prior to slaughter or twice the withdrawal time specified by the federal Food and Drug Administration, whichever is longer. In addition, vaccines may be administered for prevention of an endemic disease or as required by law. Vitamin and mineral supplements also may be administered.

(B) Any feed administered to livestock, fowl, or fish that does not comply with the requirements of regulations adopted pursuant to Section 14904 of the Food and Agricultural Code.

(C) Any artificial rumen stimulants, such as plastic pellets.

(D) Any manure intentionally fed or refed.

(E) Any synthetically compounded substance applied postslaughter to the meat, fowl, or fish itself, or to its packaging, including preservatives.

(F) Any substance applied to any area where livestock, fowl, or fish or meat, fowl, or fish products are handled or kept at any time that does not consist entirely of microorganisms, microbiological products, or substances consisting of, or derived or extracted solely from, plant, animal, or mineral-bearing rock substances. Prohibited materials shall not include the application of botanicals, lime-sulfur, gypsum, soaps, and detergents. Prohibited materials shall include the application of petroleum solvents, diesel, and other petroleum fractions.

(2) When used in connection with the production, distribution, or processing of dairy products or eggs:

(A) Any drug, medication, hormone, or growth regulator, whether or not synthetic, and any other synthetic substance, including, but not limited to, any substance administered to stimulate or regulate growth, milk or egg production, and any subtherapeutic dose of antibiotic. The use of a drug or medication for medical treatment of a specific and manifest malady diagnosed and prescribed by a licensed veterinarian, or under the general supervision of a licensed veterinarian, shall be permitted, but not less than 30 days prior to taking of the milk or laying of eggs, or twice the withdrawal time specified by the federal Food and Drug Administration, whichever is longer. In addition, vaccines may be administered for prevention of an endemic disease or as required by law. Vitamin and mineral supplements may also be administered.

(B) Any feed administered to livestock within one year of the taking of the milk, or to fowl within six months of the laying of eggs, that does not comply with the requirements of regulations adopted pursuant to Section 14904 of the Food and Agricultural Code.

(C) Any artificial rumen stimulants, such as plastic pellets.

(D) Any manure intentionally fed or refed.

(E) Any substance applied to any area where livestock, fowl, or

fish, or meat, dairy, fowl, or fish products are handled or kept at any time that does not consist entirely of micro-organisms, microbiological products, or substances consisting of, or derived or extracted solely from, plant, animal, or mineral-bearing rock substances. Prohibited materials shall not include the application of botanicals, lime-sulfur, gypsum, soaps, and detergents. Prohibited materials shall include the application of petroleum solvents, diesel, and other petroleum fractions.

(3) When used in connection with the production, handling, or processing of raw agricultural commodities and any other food not specified in paragraphs (1) and (2), any synthetically compounded fertilizer, pesticide, growth regulator, or any other substance that does not consist entirely of micro-organisms, microbiological products, or substances consisting of, or derived or extracted solely from plant, animal, or mineral-bearing rock substances. Before harvest, prohibited materials shall not include the application of bordeaux mixes and trace elements for known deficiencies as determined by plant or animal tissue or by soil testing, soluble aquatic plant products, botanicals, lime-sulfur, gypsum, dormant oils, summer oils, fish emulsion, soaps, and detergents, except for petroleum solvents, diesel, and other petroleum fractions, used as weed or carrot oils. Prohibited materials shall not include the application of soaps and detergents.

(4) Water, including substances dissolved in water, shall not be a prohibited material, even if it contains incidental contamination from a prohibited material, if the prohibited material was not added by, or under the direction or control of, the producer, handler, processor or retailer.

(q) "Retailer" means a person engaged in the sale to consumers of food sold as organic and not engaged in the production, handling or processing of food sold as organic.

(r) "Sold as organic" means any use of the terms "organic," "organically grown," "naturally grown," "ecologically grown," or "biologically grown," or grammatical variations of those terms, whether orally or in writing, in connection with any food grown, handled, processed, sold, or offered for sale in this state, including, but not limited to, any use of these terms in labeling or advertising of any food and any ingredient in a multi-ingredient food, except as provided in Section 26569.36.

(s) "Substance" includes all components of a substance, including active and inert ingredients.

(t) "Synthetically compounded" means formulated or manufactured by a process which chemically changes a substance extracted from naturally occurring plant, animal, or mineral sources, excepting microbiological processes.

SEC. 11. Section 26569.23 of the Health and Safety Code is amended to read:

26569.23. (a) No food which contains any prohibited material residue as a result of spray drift or any other contamination beyond

the control of the producer, handler, processor, or retailer, may be sold as organic unless the amount of residue does not exceed 10 percent of the federal Environmental Protection Agency tolerance level.

(b) Commencing January 1, 1992, no food which contains any prohibited material residue as a result of spray drift or any other contamination beyond the control of the producer, handler, processor, or retailer, may be sold as organic unless the amount of prohibited material residue does not exceed 5 percent of the federal Environmental Protection Agency tolerance level.

SEC. 12. Section 26569.28 of the Health and Safety Code is amended to read:

26569.28. (a) All persons who produce raw agricultural commodities that are sold as organic shall keep accurate and specific records of the following:

(1) For each field or management unit, all substances applied to the crop, soil, growing medium, growing area, irrigation or postharvest wash or rinse water, or seed, including all substances applied during the time periods specified in paragraphs (3) to (6), inclusive, of subdivision (a) of Section 26569.22, the quantity of each substance applied, and the date of each application. All substances shall be identified by brand name, if any, and by source.

(2) The quantity harvested from each field or management unit, the size of the field or management unit, the field number, and the date of harvest.

(3) The name and address and, if applicable, the registration numbers issued pursuant to Section 26569.35 or Section 46002 of the Food and Agricultural Code of all handlers, processors, or retailers to whom the food is sold or otherwise transferred, the quantity of food sold or otherwise transferred, and the date of the transaction.

(b) All persons who produce meat, fowl, fish, dairy products, or eggs sold as organic shall keep accurate and specific records of the following:

(1) Unless the livestock, fowl, or fish was raised or hatched by the producer, the name and address and, if applicable, the registration numbers issued pursuant to Section 26569.35 or Section 46002 of the Food and Agricultural Code of all suppliers of livestock, fowl, or fish and the date of the transaction.

(2) The name and address and, if applicable, the registration numbers issued pursuant to Section 26569.35 or Section 46002 of the Food and Agricultural Code of all suppliers of feed, the quantity of feed purchased, and the date of the transaction.

(3) All substances administered and fed to the animal, including all feed, medication and drugs, and all substances applied in any area in which the animal, milk, or eggs are kept, including the quantity administered or applied, and the date of each application. All substances shall be identified by brand name, if any, and by source.

(4) The name and address and, if applicable, the registration numbers issued pursuant to Section 26569.35 or Section 46002 of the

Food and Agricultural Code of all handlers, processors, or retailers to whom the food is sold or otherwise transferred, the quantity of food sold or otherwise transferred, and the date of the transaction.

(c) All persons who handle food sold as organic shall keep accurate and specific records of the following:

(1) The name and address and, if applicable, the registration numbers issued pursuant to Section 26569.35 or Section 46002 of the Food and Agricultural Code of all suppliers of the food, the quantity of food purchased or otherwise transferred, and the date of the transaction.

(2) Invoices for each shipment from the supplier that state that the food may be sold as organic.

(3) If the food is labeled or represented to be certified, invoices from the supplier or separate written documentation from a certification organization which states that the food is certified under this article.

(4) All pesticide chemicals applied to the food while in the control of the handler, including the quantity applied, and the date of each application. All pesticide chemicals shall be identified by brand name, if any, and by source.

(5) All substances routinely applied in or around any area or container in which the food is kept. All substances shall be identified by brand name, if any, and by source. This record may be provided in the form of a single list of substances used.

(6) The name and address and, if applicable, the registration numbers issued pursuant to Section 26569.35 or Section 46002 of the Food and Agricultural Code of all persons to whom the food is sold or otherwise transferred, the quantity of food sold or otherwise transferred, and the date of the transaction.

(d) All persons who process food sold as organic shall keep accurate and specific records of the following:

(1) The name and address and, if applicable, the registration numbers issued pursuant to Section 26569.35 or Section 46002 of the Food and Agricultural Code of all suppliers of the food, the quantity of food purchased or otherwise transferred, and the date of the transaction.

(2) Invoices for each shipment from the supplier that state that the food may be sold as organic.

(3) If the food is labeled or represented to be certified, invoices from the supplier or separate written documentation from a certification organization which states that the food is certified under this article.

(4) All substances applied to the food or used in its processing, all substances applied to the food while in the control of the processor, and all substances applied in or around any area or container in which the food is kept, including the quantity of substances applied and the date of each application. All substances shall be identified by brand name, if any, and by source.

(5) The name and address and, if applicable, the registration

numbers issued pursuant to Section 26569.35 or Section 46002 of the Food and Agricultural Code of all handlers, processors, or retailers to whom the food is sold or otherwise transferred, the quantity of food sold or otherwise transferred, and the date of the transaction.

(e) All persons who sell, at retail, food sold as organic shall keep accurate and specific records of the following:

(1) The name and address and, if applicable, the registration numbers issued pursuant to Section 26569.35 or Section 46002 of the Food and Agricultural Code of all suppliers of the food, the quantity of food purchased or otherwise transferred, and the date of the transaction.

(2) Invoices for each shipment from the supplier that state that the food may be sold as organic.

(3) If the food is labeled or represented to be certified, invoices from the supplier or separate written documentation from a certification organization which states that the food is certified under this article.

(4) All pesticide chemicals applied to the food while in the control of retailer, including the quantity applied, and the date of each application. All pesticide chemicals shall be identified by brand name, if any, and by source.

(5) All substances routinely applied in or around any area or container in which the food is kept. All substances shall be identified by brand name, if any, and by source. This record may be provided in the form of a single list of substances used. One list may be kept at the retailer's headquarters office if all individual stores operated by that retailer utilize only the substances on the list.

Paragraphs (1) and (2) shall not apply to a person who both produces and sells, at retail, the same food. The records required to be kept pursuant to paragraphs (1) to (4), inclusive, of this subdivision may be kept at the retailer's warehouse or headquarters office.

(f) All records required to be kept under this section shall be maintained by producers for not less than three years and by handlers and processors for not less than two years from the date on which the food is sold, and shall be maintained by retailers for not less than one year from the date on which the food is received by the retailer. These records shall be made available for inspection at any time by the director or the Director of Food and Agriculture and by each certification organization that certifies the food, if any, for purposes of carrying out this article and Chapter 10 (commencing with Section 46000) of Division 17 of the Food and Agricultural Code.

SEC. 13. Section 26569.30 of the Health and Safety Code is amended to read:

26569.30. (a) Commencing January 1, 1992, the term "certified" and variations of that term may be used in connection with food sold as organic only in accordance with this section, subdivisions (c) and (d) of Section 26569.24, Sections 26569.31 to 26569.34, inclusive, and Section 46009 of the Food and Agricultural Code.

(b) Food sold as organic may be certified only by a certification organization registered pursuant to subdivisions (c) and (d), by the director pursuant to subdivision (f), by a certification organization registered pursuant to Section 46009 of the Food and Agricultural Code, or by the Director of Food and Agriculture or a county agricultural commissioner pursuant to Section 46009 of the Food and Agricultural Code.

(c) In order to be registered, a certification organization shall meet all of the following minimum qualifications:

(1) Be the certification organization for at least 10 legally separate and distinct, financially unrelated, and independently controlled persons involved in the production or processing of food sold as organic.

(2) Be a legally separate and distinct entity from any person whose food is certified by the organization. A certification organization shall be considered legally separate and distinct notwithstanding the fact that persons or representatives of persons whose food is certified serve as directors, officers, or in other capacities for the certification organization, so long as those persons or representatives of those persons do not exercise decisionmaking authority over certification of that particular food.

(3) Have no financial interest in the sale of the food, except that fees charged by the certification organization to cover the reasonable costs of operating the certification organization do not constitute a financial interest for purposes of this section.

(d) Effective January 1, 1992, a certification organization which certifies processed food sold as organic, except for processed meat, fowl, or dairy products, shall register with the director and shall thereafter annually renew the registration unless no longer engaged in the activities requiring the registration. Registration shall be on a form provided by the director, shall include the filing of a certification plan as specified in Section 26569.33 and payment of the fee specified in subdivision (f). The director shall make forms available for this purpose on or before July 31, 1991. The registration form shall include the names of all persons involved in making certification decisions or setting certification standards for the certification organization. The director shall reject a registration submission that is incomplete or not in compliance with this article.

(e) Commencing July 31, 1991, the director may, upon the request of a sufficient number of persons to fund the program's cost, establish and maintain a certification program for processors of food sold as organic and shall establish and collect a fee from all processors of food certified under that program to cover all of the department's costs of administering the program. The certification program shall be subject to all provisions regarding certification organizations contained in this article, except that the requirements of subdivisions (c) and (d) shall not apply.

(f) The director shall supervise all certification organizations registered with the department, shall establish a complaint

procedure concerning noncompliance with this article by certification organizations registered with the department, and shall establish and collect an annual registration fee based on the unit of weight or measure, gross sales or other measure of the amount of food certified by the organization, to cover the costs of the supervision. The registration fee established by the department shall not exceed two thousand dollars ($2,000) per organization. Supervision shall include a written evaluation of the organization's certification plan at least biannually. The written evaluation shall be made available for public inspection.

(g) The director may audit the organization's certification procedures and records at any time. Records of certification organizations not otherwise required to be disclosed shall be kept confidential by the director.

SEC. 14. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for this act to take effect and apply during the 1991 growing and marketing season for agricultural products, it is necessary that this act take effect immediately.

CHAPTER 1136

An act to amend Sections 188.1, 188.2, and 188.3 of the Health and Safety Code, relating to acquired immune deficiency syndrome, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 188.1 of the Health and Safety Code is amended to read:

188.1. (a) To the extent that state and federal funds are appropriated in the Budget Act for these purposes, the director shall establish and may administer a program to provide drug treatments to persons infected with human immunodeficiency virus (HIV), the etiologic agent of acquired immune deficiency syndrome (AIDS). The director shall develop, maintain, and update as necessary a list of drugs to be provided under this program. Drugs on the list shall include, but not be limited to, the drugs zidovudine (AZT) and aerosolized pentamidine.

(b) The director may grant funds to a county public health department through standard agreements to administer this program in that county. To maximize the recipients' access to drugs covered by this program, the director shall urge the county health

department in counties granted these funds to decentralize distribution of the drugs to the recipients.

(c) The director shall establish a rate structure for reimbursement for the cost of each drug included in the program. Rates shall not be less than the actual cost of the drug. However, the director may purchase a listed drug directly from the manufacturer and negotiate the most favorable bulk price for that drug.

(d) Reimbursement under this chapter shall not be made for any drugs which are available to the recipient under any other private, state, or federal programs, or under any other contractual or legal entitlements, except that the director may authorize an exemption from this subdivision where exemption would represent a cost savings to the state.

SEC. 2. Section 188.2 of the Health and Safety Code is amended to read:

188.2. (a) The state department shall establish uniform standards of financial eligibility for the drugs under the program established under this chapter.

(b) Nothing in the financial eligibility standards shall prohibit drugs to an otherwise eligible person whose adjusted gross income does not exceed fifty thousand dollars ($50,000) per year. However, the director may authorize drugs for persons with incomes higher than fifty thousand dollars ($50,000) per year if the estimated cost of those drugs in one year is expected to exceed 20 percent of the person's adjusted gross income.

(c) The state department shall establish and may administer a payment schedule to determine the payment obligation of a person receiving drugs. No person shall be obligated for payment whose adjusted gross income is less than four times the federal poverty level. The payment obligation shall be the lesser of the following:

(1) Two times the person's annual state income tax liability, less funds expended by the person for health insurance premiums.

(2) The cost of drugs.

(d) Persons who have been determined to have a payment obligation pursuant to subdivision (c) shall be advised by the state department of their right to request a reconsideration of that determination to the state department. Written notice of the right to request a reconsideration shall be provided to the person at the time that notification is given that he or she is subject to a payment obligation. The payment determination shall be reconsidered if one or more of the following apply:

(1) The determination was based on an incorrect calculation made pursuant to subdivision (b).

(2) There has been a substantial change in income since the previous eligibility determination which has resulted in a current income that is inadequate to meet the calculated payment obligation.

(3) Unavoidable family or medical expenses which reduce the disposable income and which result in current income that is

inadequate to meet the payment obligation.

(4) Any other situation which imposes undue financial hardship on the person and would restrict his or her ability to meet the payment obligation.

(e) The state department may exempt a person, who has been determined to have a payment obligation pursuant to subdivision (c), from the obligation if both of the following criteria are satisfied:

(1) One or more of the circumstances specified in subdivision (d) exist.

(2) The state department has determined that the payment obligation will impose an undue financial hardship on the person.

(f) If a person requests reconsideration of the payment obligation determination, the person shall not be obligated to make any payment until the state department has completed the reconsideration request pursuant to subdivision (d). If the state department denies the exemption, the person shall be obligated to make payments for drugs received while the reconsideration request is pending.

(g) A county public health department administering this program pursuant to an agreement with the director pursuant to subdivision (b) of Section 188.1 shall use no more than 5 percent of total payments it collects pursuant to this section to cover any administrative costs related to eligibility determinations, reporting requirements, and the collection of payments.

SEC. 3. Section 188.3 of the Health and Safety Code is amended to read:

188.3. (a) Effective March 15, 1991, a person determined eligible for benefits under this chapter shall be subject to the payment obligation specified in subdivision (c) of Section 188.2.

(b) Persons who are receiving benefits under a HIV drug treatment subsidy program administered by the state department prior to March 15, 1991, shall not be subject to the payment obligation specified in subdivision (c) of Section 188.2.

(c) Notwithstanding subdivision (b), if any person is disenrolled from eligibility in a HIV drug treatment subsidy program administered by the state department for any reason after March 15, 1991, the subsequent enrollment of that person for benefits under this chapter shall be in accordance with the payment obligation specified in subdivision (c) of Section 188.2.

(d) Notwithstanding subdivision (b), if a drug is added pursuant to subdivision (a) of Section 188.1, any person determined eligible for benefits under this chapter, regardless of the date of enrollment, shall be subject to the payment obligation specified in subdivision (c) of Section 188.2 for the added drug. The payment obligation for any other drug shall be determined in accordance with subdivision (b).

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Because changes to the HIV drug treatment program are necessary in order to provide the State Department of Health Services with the means to fully implement the program concurrent with the Budget Act of 1991, it is necessary that this act go into immediate effect.

CHAPTER 1137

An act to amend Section 1502 of the Health and Safety Code, and to amend Sections 11400, 17710, 17730, 17731, 17732, and 17736 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 1502 of the Health and Safety Code is amended to read:

1502. As used in this chapter:

(a) "Community care facility" means any facility, place, or building which is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children, and includes the following:

(1) "Residential facility" means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(2) "Adult day care facility" means any facility which provides nonmedical care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis.

(3) "Therapeutic day services facility" means any facility which provides nonmedical care, counseling, educational or vocational support, or social rehabilitation services on less than a 24-hour basis to persons under 18 years of age who would otherwise be placed in foster care or who are returning to families from foster care. Program standards for these facilities shall be developed by the department, pursuant to Section 1530, in consultation with therapeutic day services and foster care providers.

(4) "Foster family agency" means any individual or organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other

places for placement of children for temporary or permanent care who require that level of care as an alternative to a group home. Private foster family agencies shall be organized and operated on a nonprofit basis.

(5) "Foster family home" means any residential facility providing 24-hour care for six or fewer foster children which is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. The placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian.

(6) "Small family home" means any residential facility, in the licensee's family residence, which provides 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities. A small family home may accept children with special health care needs, pursuant to subdivision (a) of Section 17710 of the Welfare and Institutions Code. In addition to placing children with special health care needs, the department may approve placement of children without special health care needs, up to the licensed capacity.

(7) "Social rehabilitation facility" means any residential facility which provides social rehabilitation services for no longer than 18 months in a group setting to adults recovering from mental illness who temporarily need assistance, guidance, or counseling. Program components shall be subject to program standards pursuant to Section 5458.1 of the Welfare and Institutions Code.

(8) "Community treatment facility" means any residential facility which provides mental health treatment services to children in a group setting. Program components shall be subject to program standards developed by the State Department of Mental Health pursuant to Section 5405 of the Welfare and Institutions Code.

Nothing in this section shall be construed to prohibit or discourage placement of persons who have mental or physical disabilities into any category of community care facility that meets the needs of the individual placed, if the placement is consistent with the licensing regulations of the department.

(9) "Full-service adoption agency" means any licensed entity engaged in the business of providing adoption services, who does all of the following:

(A) Assumes care, custody, and control of a child through relinquishment of the child to the agency or involuntary termination of parental rights to the child.

(B) Assesses the birth parents, prospective adoptive parents, or child.

(C) Places children for adoption.

(D) Supervises adoptive placements.

Private full-service adoption agencies shall be organized and operated on a nonprofit basis.

(10) "Noncustodial adoption agency" means any licensed entity engaged in the business of providing adoption services, who does all of the following:

(A) Assesses the prospective adoptive parents.

(B) Cooperatively matches children freed for adoption, who are under the care, custody, and control of a licensed adoption agency, for adoption, with assessed and approved adoptive applicants.

(C) Cooperatively supervises adoptive placements with a full-service adoptive agency, but does not disrupt a placement or remove a child from a placement.

Private noncustodial adoption agencies shall be organized and operated on a nonprofit basis.

(b) "Department" or "state department" means the State Department of Social Services.

(c) "Director" means the Director of Social Services.

SEC. 2. Section 11400 of the Welfare and Institutions Code is amended to read:

11400. For the purposes of this article, the following definitions shall apply:

(a) "Aid to Families with Dependent Children-Foster Care (AFDC-FC)" means the aid provided in behalf of needy children in foster care under the terms of this division.

(b) "Case plan" means a written document which at a minimum specifies the type of home in which the child shall be placed, the appropriateness of the home for meeting the child's needs, the agency's plan for ensuring that the child, the family, and foster parents receive services, and the appropriateness of the services provided to the child, in order to meet the child's needs while in foster care, and to reunify the child with his or her family, or, when reunification is not possible, to facilitate an alternate permanent plan.

(c) "Certified family home" means a family residence certified by a licensed foster family agency and issued a certificate of approval by that agency as meeting licensing standards, and used only by that foster family agency for placements.

(d) "Family home" means the family residency of a licensee in which 24-hour care and supervision are provided for children.

(e) "Small family home" means any residential facility, in the licensee's family residence, which provides 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities.

(f) "Foster care" means the 24-hour out-of-home care provided to children whose own families are unable or unwilling to care for them, and who are in need of temporary or long-term substitute parenting.

(g) "Foster family agency" means any individual or organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other

places for placement of children for temporary or permanent care who require that level of care as an alternative to a group home. Private foster family agencies shall be organized and operated on a nonprofit basis.

(h) "Group home" means a nondetention privately operated residential home of any capacity that provides services in a group setting to children in need of care and supervision, as required by paragraph (1) of subdivision (a) of Section 1502 of the Health and Safety Code.

(i) "Periodic review" means review of a child's status by the juvenile court or by an administrative review panel, which shall include a determination of the continuing need for placement in foster care, evaluation of the goals for the placement and the progress toward meeting these goals, and development of a target date for the child's return home or establishment of alternative permanent placement.

(j) "Permanency planning hearing" means a hearing conducted by the juvenile court in which the child's future status, including whether the child shall be returned home or another permanent plan shall be developed, is determined.

(k) "Placement and care" refers to the responsibility for the welfare of a child vested in an agency or organization by virtue of the agency or organization having (1) been delegated care, custody, and control of a child by the juvenile court, (2) taken responsibility, pursuant to a relinquishment or termination of parental rights on a child, (3) taken the responsibility of supervising a child detained by the juvenile court pursuant to Section 319 or 636, or (4) signed a voluntary placement agreement for the child's placement; or to the responsibility designated to an individual by virtue of his or her being appointed the child's legal guardian.

(*l*) "Preplacement preventive services" means services which are designed to help children remain with their families by preventing or eliminating the need for removal.

(m) "Relative" means a person who can be a "caretaker relative" of a dependent child under Section 406 of the Social Security Act.

(n) "Voluntary placement" means an out-of-home placement of a minor by (1) county welfare department after the parents or guardians have requested the assistance of the county welfare department and have signed a voluntary placement agreement; or (2) the county welfare department licensed public or private adoption agency, or the department acting as an adoption agency, after the parents have requested the assistance of either the county welfare department, the licensed public or private adoption agency, or the department acting as an adoption agency for the purpose of adoption planning, and have signed a voluntary placement agreement.

(o) "Voluntary placement agreement" means a written agreement between either the county welfare department, a licensed public or private adoption agency, or the department acting

as an adoption agency, and the parents or guardians of a minor which specifies the terms of the voluntary placement.

(p) "Original placement date" means the most recent date on which the court detained a child and ordered an agency to be responsible for supervising the child or the date on which an agency assumed responsibility for a child due to termination of parental rights, relinquishment, or voluntary placement.

SEC. 3. Section 17710 of the Welfare and Institutions Code is amended to read:

17710. Unless otherwise specified in this part:

(a) "Child with special health care needs" means a child who has been adjudged a dependent of the court pursuant to Section 300, a child who has not been adjudged a dependent of the court pursuant to Section 300 but who is in the custody of the county welfare department, or a child with a developmental disability who is receiving services and case management from a regional center who has a medical condition which requires specialized in-home health care which may be provided by nonmedical personnel, such as a foster parent trained to provide this care.

(b) "County" means the county welfare department.

(c) "Department" means the State Department of Social Services.

(d) "Individualized health care plan team" means those individuals who develop a health care plan for a child with special health care needs in foster care, which shall include, the child's primary care physician or other health care professional designated by the physician, any involved medical team, the county social worker or regional center worker, and may in addition include, but shall not be limited to, a public health nurse, representatives from the California Children's Services program or the Child Health and Disability Prevention Program, regional centers, the county mental health department, the prospective specialized foster family, and where reunification is the goal, the parent or parents, if available.

(e) "Director" means the Director of Social Services.

(f) "Level of care" means a description of the specialized in-home health care to be provided to a child with special health care needs by the foster family.

(g) Medical conditions requiring special in-home health care require dependency upon one or more of the following: internal feeding tube, total parenteral feeding, a cardiorespiratory monitor, intravenous therapy, a ventilator, urinary catheterization, ministrations imposed by tracheostomy, colostomy, ileostomy, or other medical or surgical procedures or special medication regimens, including injection, aerosol treatment, and intravenous or oral medication.

(h) "Specialized in-home health care" includes, but is not limited to, those services identified by the child's primary physician as appropriately administered by a foster parent trained by health care professionals pursuant to the discharge plan of the facility releasing

the child being placed in, or currently in, foster care.

(i) "Specialized foster care home" means any of the following foster homes where the foster parents reside in the home and have been trained to provide specialized in-home health care to foster children:

(1) Licensed foster family homes, as defined in paragraph (5) of subdivision (a) of Section 1502 of the Health and Safety Code.

(2) Licensed small family homes, as defined in paragraph (6) of subdivision (a) of Section 1502 of the Health and Safety Code.

SEC. 4. Section 17730 of the Welfare and Institutions Code is amended to read:

17730. The department shall develop a program to establish foster care homes for children with special health care needs with foster parents trained by health care professionals pursuant to the discharge plan of the facility releasing the child being placed in, or currently in foster care. The program shall conform to the requirements set forth in this chapter, and shall be integrated with the foster care and child welfare services programs authorized by Article 5 (commencing with Section 11400) of Chapter 2 of Part 3 and Chapter 5 (commencing with Section 16500) of Part 4.

The department, in administering the licensing program, shall not evaluate or have any responsibility for the evaluation of the in-home health care provided in specialized foster care homes.

This program shall be conducted by county welfare departments in conformance with procedures established by the department in accordance with this chapter.

SEC. 5. Section 17731 of the Welfare and Institutions Code is amended to read:

17731. (a) The county shall develop a plan to place children with special health care needs in foster care. This plan shall be submitted to the State Department of Social Services and the State Department of Health Services, not later than April 1, 1990, before beginning placement of children with special health care needs in specialized foster care homes. This subdivision shall not invalidate any placement made before April 1, 1990. A county which has not submitted a plan by April 1, 1990, shall not continue to make placements of children with special health care needs until the plan has been submitted.

(b) Unless a local lead agency has been designated within the county, as described in Item 4260-113-890 of the Budget Act of 1989, the county department of social services shall be the lead agency with the responsibility of developing the plan to be submitted pursuant to subdivision (a). The county plan shall be formalized in an interagency agreement between the county department of social services and the other county and private agencies that are the involved parties.

(c) The county plan shall meet all the requirements specified in this subdivision. The regional center shall not be required to submit a plan. However, all requirements specified in this subdivision shall

be met prior to a regional center placement of a child who is not a court dependent who has special health care needs.

(1) Prior to the placement of a child with special health care needs, an individualized health care plan, which may be the hospital discharge plan, shall be prepared for the child and, if necessary, in-home health support services shall be arranged. The individualized health care plan team shall be convened by the county department of social services caseworker or the regional center caseworker, to discuss the specific responsibilities of the foster parents for provision of in-home health care in accordance with the individualized health care plan developed by the child's physician or his or her designee. The plan may also include the identification of any available and funded medical services that are to be provided to the child in the home, including, but not limited to, assistance from registered nurses, licensed vocational nurses, public health nurses, physical therapists, and respite care workers. The individualized health care plan team shall delineate in the individualized health care plan the coordination of health and related services for the child. The plan shall be monitored by the county department of social services caseworker or regional center caseworker in accordance with applicable regulations.

(2) A child welfare services case plan or regional center individual program plan shall be developed in accordance with applicable regulations, and arrangements made for nonmedical support services.

(3) Foster parents shall be trained by health care professionals pursuant to the discharge plan of the facility releasing the child being placed in, or currently in, foster care. Training shall be provided as needed during the placement of the child and to the child's biological parent or parents when the child is being reunified with his or her family.

(4) Children with special health care needs shall be placed in the home of the prospective foster parent subsequent to training by a health care professional pursuant to the discharge plan of the facility releasing the child being placed in foster care.

(5) Assistant caregivers and respite care workers shall be either of the following:

(A) A health care professional.

(B) Trained by a health care professional care in accordance with paragraph (3).

(6) Specialized foster care homes shall be monitored by the county or regional center according to applicable regulations. The health care plan shall designate which health care professional shall monitor the child's ongoing health care, including in-home health care provided by the foster parent.

(7) The child's individualized health care plan shall be reassessed no less than every six months during the time the child is placed in the specialized foster care home, to ensure that specialized care payments are appropriate to meet the child's health care needs.

(8) The placement agencies shall coordinate the sources of funding and services available to children with special health care needs in order to maximize the social services provided to these children and to avoid duplication of programs and funding.

SEC. 6. Section 17732 of the Welfare and Institutions Code is amended to read:

17732. No more than two foster care children shall reside in a specialized foster care home with the following exceptions:

(a) A specialized foster care home may have a third child with or without special health care needs placed in that home when all of the following conditions have been met:

(1) No other placement is available.

(2) The psychological and social needs of the children in placement and the child to be placed will be met by the placement.

(3) The individualized health care plan team responsible for the ongoing care of each child with special health care needs involved has waived the two-child limit.

(b) A small family home may exceed the placement limit specified in subdivision (a) and accept children with or without special health care needs up to the licensed capacity as determined under paragraph (6) of subdivision (*l*) of Section 1502 of the Health and Safety Code if the following additional conditions have been met:

(1) At least one of the children in the facility is a regional center placement and the home meets the requirements of Section 56001 and following of Title 17 of the California Code of Regulations.

(2) The licensee of the small family home has the assistance of a 24-hour caregiver to provide specialized in-home health care to the foster children. The department may determine that additional assistance is required to provide appropriate care and supervision for all children in placement. The determination shall only be made after consultation with the appropriate regional center and any appropriate individual health care teams.

(3) Verification by each child's placement worker that the needs of each child in placement can be met.

(4) On-call assistance is available at all times to respond in case of an emergency. The on-call assistant shall meet the requirements of paragraph (5) of subdivision (c) of Section 17731.

(5) The home is sufficient in size to accommodate the needs of all children in the home.

(c) Notwithstanding Section 1523 of the Health and Safety Code, a foster family home which has more than three children with special health care needs in its care as of January 1, 1992, and which applies for licensure as a small family home in order to continue to provide care for those children, shall be exempt from the application fee.

(d) A group home may not provide care to children with special health care needs except on a short-term basis as determined by the department. Any group home which provides care for those children as of January 1, 1992, shall do either of the following:

(1) Apply for small family home licensure and comply with the requirements of subdivision (b).

(2) If the group home provides care to more than six children, accept no additional children for care and reduce capacity to the small family home capacity limits through attrition.

SEC. 7. Section 17736 of the Welfare and Institutions Code is amended to read:

17736. Notwithstanding any other provision of law, including Sections 1250, 1251, 1254, 1270, 1501, 1502, 1505, 1507, 1521, 1530.6 (as added by Chapter 391 of the Statutes of 1977), 1550, 11002, and 11154 of the Health and Safety Code, and Sections 2052, 2725, 2732, and 2795 of the Business and Professions Code, counties shall be permitted to place children with special health care needs in foster family homes pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code, and shall permit a foster parent, an assistant caregiver and a respite caregiver trained by health care professionals pursuant to the discharge plan of the facility releasing the child to provide specialized in-home health care to that foster child, as described in the individualized health care plan for the child.

CHAPTER 1138

An act to amend Sections 25281 and 25292.1 of, and to add Section 25295.5 to, the Health and Safety Code, relating to hazardous substances.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 25281 of the Health and Safety Code is amended to read:

25281. For purposes of this chapter, the following definitions apply:

(a) "Automatic line leak detector" means any method of leak detection, as determined in regulations adopted by the board, which alerts the owner or operator of an underground storage tank to the presence of a leak. "Automatic line leak detector" includes, but is not limited to, any device or mechanism which alerts the owner or operator of an underground storage tank to the presence of a leak by restricting or shutting off the flow of hazardous substance through piping, or by triggering an audible or visual alarm, and which detects leaks of three gallons or more per hour at 10 pounds per square inch line pressure within one hour.

(b) "Board" means the State Water Resources Control Board. "Regional board" means a California regional water quality control

board.

(c) "Department" means the State Department of Health Services.

(d) "Facility" means any one, or combination of, underground storage tanks used by a single business entity at a single location or site.

(e) "Federal act" means Subchapter IX (commencing with Section 6991) of Chapter 82 of Title 42 of the United States Code, as added by the Hazardous and Solid Waste Amendments of 1984 (P.L. 98-616), or as it may subsequently be amended or supplemented.

(f) "Hazardous substance" means both of the following:

(1) All of the following liquid and solid substances, unless the department, in consultation with the board, determines that the substance could not adversely affect the quality of the waters of the state:

(A) Substances on the list prepared by the Director of Industrial Relations pursuant to Section 6382 of the Labor Code.

(B) Hazardous substances, as defined in Section 25316.

(C) Any substance or material which is classified by the National Fire Protection Association (NFPA) as a flammable liquid, a class II combustible liquid, or a class III-A combustible liquid.

(2) Any regulated substance, as defined in subsection (2) of Section 6991 of Title 42 of the United State Code, as that section reads on January 1, 1989, or as it may subsequently be amended or supplemented.

(g) "Local agency" means the department, office, or other agency of a county or city designated pursuant to Section 25283.

(h) "Operator" means any person in control of, or having daily responsibility for, the daily operation of an underground storage tank system.

(i) "Owner" means the owner of an underground storage tank.

(j) "Person" means an individual, trust, firm, joint stock company, corporation, including a government corporation, partnership, or association. "Person" also includes any city, county, district, the state, any department or agency thereof, or the United States to the extent authorized by federal law.

(k) "Pipe" means any pipeline or system of pipelines which is used in connection with the storage of hazardous substances and which is not intended to transport hazardous substances in interstate or intrastate commerce or to transfer hazardous materials in bulk to or from a marine vessel.

(*l*) "Primary containment" means the first level of containment, such as the portion of a tank which comes into immediate contact on its inner surface with the hazardous substance being contained.

(m) "Product-tight" means impervious to the substance which is contained, or is to be contained, so as to prevent the seepage of the substance from the primary containment. To be product-tight, the tank shall not be subject to physical or chemical deterioration by the substance which it contains over the useful life of the tank.

(n) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from an underground storage tank into or on the waters of the state, the land, or the subsurface soils.

(o) "Secondary containment" means the level of containment external to, and separate from, the primary containment.

(p) "Single-walled" means construction with walls made of only one thickness of material. For the purpose of this chapter, laminated, coated, or clad materials are considered single-walled.

(q) "Special inspector" means a professional engineer, registered pursuant to Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code, who is qualified to attest, at a minimum, to structural soundness, seismic safety, the compatibility of construction materials with contents, cathodic protection, and the mechanical compatibility of the structural elements of underground storage tanks.

(r) "Storage" or "store" means the containment, handling, or treatment of hazardous substances, either on a temporary basis or for a period of years. "Storage" or "store" does not mean the storage of hazardous wastes in an underground storage tank if the person operating the tank has been issued a hazardous waste facilities permit by the department pursuant to Section 25200 or granted interim status under Section 25200.5.

(s) "SWEEPS" means the Statewide Environmental Evaluation and Planning System administered by the California Association of Environmental Health Administrators.

(t) "Tank" means a stationary device designed to contain an accumulation of hazardous substances which is constructed primarily of nonearthen materials (e.g. wood, concrete, steel, plastic) which provides structural support.

(u) "Tank integrity test" means a test method capable of detecting an unauthorized release from an underground storage tank consistent with the minimum standards adopted by the board.

(v) "Tank tester" means an individual who performs tank integrity tests on underground storage tanks.

(w) "Unauthorized release" means any release of any hazardous substance which does not conform to this chapter, including, but not limited to, an unauthorized release specified in Section 25295.5 unless this release is authorized by the board or a regional board pursuant to Division 7 (commencing with Section 13000) of the Water Code.

(x) "Underground storage tank" means any one or combination of tanks, including pipes connected thereto, which is used for the storage of hazardous substances and which is substantially or totally beneath the surface of the ground. "Underground storage tank" does not include any of the following:

(1) A tank with a capacity of 1,100 gallons or less which is located on a farm and which stores motor vehicle fuel used primarily for agricultural purposes and not for resale.

(2) A tank which is located on a farm or at the residence of a person, which has a capacity of 1,100 gallons or less, and which stores

home heating oil for consumptive use on the premises where stored.

(3) Structures such as sumps, separators, storm drains, catch basins, oil field gathering lines, refinery pipelines, lagoons, evaporation ponds, well cellars, separation sumps, lined and unlined pits, sumps and lagoons. Sumps which are a part of a monitoring system required under Section 25291 or 25292 and sumps or other structures defined as underground storage tanks under the federal act are not exempted by this section. Structures identified in this paragraph may be regulated by the board and any regional board pursuant to the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code) to ensure that they do not pose a threat to water quality.

(y) "Underground tank system" or "tank system" means an underground storage tank, connected piping, ancillary equipment, and containment system, if any.

SEC. 2. Section 25292.1 of the Health and Safety Code is amended to read:

25292.1. All underground tank systems shall meet the following operational requirements:

(a) The underground tank system shall be operated to prevent unauthorized releases, including spills and overfills, during the operating life of the tank, including during gauging, sampling, and testing for the integrity of the tank.

(b) Where equipped with cathodic protection, the underground tank system shall be operated by a person with sufficient training and experience in preventing corrosion.

(c) The underground tank system shall be structurally sound at the time of upgrade or repair.

SEC. 3. Section 25295.5 is added to the Health and Safety Code, to read:

25295.5. (a) For purposes of this chapter, an unauthorized release includes, but is not limited to, a spill or overfill of a hazardous substance that meets both of the following conditions:

(1) The spill or overfill occurs while the hazardous substance is being placed in an underground storage tank.

(2) The spill or overfill is due to the use of improper equipment, faulty equipment, operator error, or inattention or overfilling.

(b) A person who causes an unauthorized release of a hazardous substance specified in subdivision (a) shall immediately notify the operator of the underground storage tank that a spill has occurred and the operator shall comply with the requirements of Sections 25294 or 25295, whichever is applicable.

(c) A spill or overfill shall not qualify for funds provided pursuant to Section 25299.51.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty

for a crime or infraction, or eliminates a crime or infraction or because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1139

An act to amend Sections 8256.1, 8257, 8257.2, and 8259 of, and to add Section 8258.5 to, the Government Code, relating to displaced homemakers, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 8256.1 of the Government Code is amended to read:

8256.1. The Legislature hereby finds and declares that:

(a) Many persons, primarily women who have relied upon a spouse as primary or sole means of support, are temporarily without adequate resources to sustain themselves or their dependents, or to become self-sufficient, during transition times occasioned by abandonment, divorce, or widowhood.

(b) These persons, because of past financial status, may not qualify for public assistance programs. Often, they are ineligible for unemployment payments or other than minimal social security benefits because of their employment history. In many cases, they jointly own property, serving as a principal residence, which they are unable to liquidate in order to provide financial resources, yet which disqualifies them from receiving public assistance.

(c) An emergency loan program is necessary to assist displaced homemakers in adjusting to the fiscal, emotional, and career crises often inherent in the loss of their primary provider's support as a result of abandonment, separation, divorce, or widowhood, and to provide them the opportunities, education, and training necessary to live independently and become effective participants in the work force.

(d) The creation of the loan program contained in this chapter is an important enabling method for these persons to enhance their lives and to ensure their opportunity to achieve self-sufficiency.

(e) Experience indicates that displaced homemakers require counseling, education, training, and assistance in finding suitable employment, and that the provision of these services in addition to

an emergency loan may enable them to live independently and become self-sufficient. These services can be provided by a displaced homemaker resource center that combines a variety of local, state, and federal resources into a one stop, direct service source. It is important to provide the opportunity to test the effectiveness of combining the loan program with the provision of the necessary services to enable displaced homemakers to become self-sufficient.

SEC. 2. Section 8257 of the Government Code is amended to read:

8257. The Legislature hereby creates the Displaced Homemaker Emergency Loan Act which shall be administered by the California Commission on the Status of Women as a pilot project in the Counties of Marin, San Francisco, Alameda, Los Angeles, Orange, and San Diego.

(a) The commission is authorized to make any regulations, guidelines, and agreements deemed necessary by the commission to carry out the purposes and provisions of this act.

(b) An advisory committee shall be formed including a representative each from the California Commission on the Status of Women; the Treasurer's Office; the Business, Transportation and Housing Agency; the County of Marin Commission on the Status of Women; the Student Aid Commission; and a displaced homemaker service provider and a displaced homemaker selected by the California Commission on the Status of Women. The commission shall consult with the advisory committee and other appropriate officials in developing and administering this act.

(c) Loans may be made to displaced homemakers in amounts not to exceed two thousand five hundred dollars ($2,500) per displaced homemaker.

(d) Applications for loan guarantees shall be filed with the commission within 18 months from the displacement date.

(e) Loans shall not be made for purposes for which other public assistance is available.

(f) Priority shall be given to applicants who are participating in job search or educational programs designed to improve the employability of the individual or who meet the requirements of paragraph (4) of subdivision (a) of Section 8257.2. Loans shall not be made for this purpose if other assistance is available.

(g) Repayment of a loan shall commence no later than nine months after receipt of the loan, with an option to postpone the commencement of payments another six months in cases of need which are verified by the commission.

(h) Full payment shall be made within 48 months after commencing loan repayment but the time required for repayment may be extended in cases of need that are verified by the commission.

(i) The minimum monthly payment on each loan shall be twenty-five dollars ($25).

(j) Loans shall be made only to displaced homemakers who are

being served by displaced homemaker resource centers which have developed a collaborative effort of local communities and state agencies into a one stop source of supportive services for displaced homemakers.

SEC. 3. Section 8257.2 of the Government Code is amended to read:

8257.2. (a) "Displaced homemaker" means a person who has been abandoned by, or separated from, their primary income provider, divorced, or widowed and who has an economic need caused by the displacement, the criteria for which shall include any of the following categories:

(1) While a homemaker, did not work for a continuous period of at least five years up until the time of displacement or whose work did not provide sufficient job skills to enable him or her to find employment suitable to sustain him or her and the family.

(2) A person whose income, at the time of displacement, did not amount to more than one-third of the gross household income and did not exceed two-thirds of the statewide median household income.

(3) A person whose employment has ended within six months of displacement because of stress related to displacement.

(4) A person who, because of age or care of dependents, has added economic burdens related to the displacement.

(5) A person who has provided unpaid services to family members and has lost their primary source of income because of the displacement.

(b) "Displaced homemaker" also means an individual who has not worked in the paid labor force for a number of years, but whose primary occupation, during those years, has been providing unpaid services to family members and who is required to leave the home setting to seek paid employment because the primary source of economic support has been terminated or drastically reduced through displacement.

(c) "Displacement" means divorce, widowhood, or abandonment by, or separation from, a primary income provider.

(d) The date of displacement by divorce means the date of legal dissolution of the marriage. The date of displacement by widowhood means the official date of death of a primary income provider. The official date of abandonment or separation means the date after which the spouse has been absent from the household and is withholding the preseparation level of support to the abandoned or separated spouse. For loans requested as a result of abandonment or separation, the borrower shall sign a statement certifying the official date of separation or abandonment from his or her primary income provider as a part of the loan application process.

(e) "Eligible lender" means:

(1) A national or state chartered bank, savings and loan association, or a credit union which is subject to examination and supervision by an agency of the United States or of this state.

(2) A pension fund as defined in the federal Employees Retirement Income Security Act.

(3) An insurance company which is subject to examination and supervision by an agency of the United States or this state.

(4) Any eligible lender approved by the commission to make loans pursuant to this chapter.

(f) "Insured displaced homemaker loan" means a loan, including a full line of credit, to a displaced homemaker by an eligible lender, as to which the payment of principal and interest is fully insured by the commission.

(g) "Loan guaranty" means the certificate, document, or endorsement issued by the commission as evidence of its insurance of an insured homemaker loan.

SEC. 4. Section 8258.5 is added to the Government Code, to read:

8258.5. The California Commission on the Status of Women shall, by March 1, 1994, report to the Legislature on the Displaced Homemaker Emergency Loan program. The report shall include data on the number of loans provided and the characteristics of those receiving loans. The data shall include, but not be limited to, all of the following:

(1) Default rates.

(2) Uncollected amounts.

(3) The number of loan extensions requested and granted.

(4) The number of individuals receiving loans who are also receiving Aid to Families with Dependent Children grants or other public assistance moneys.

SEC. 5. Section 8259 of the Government Code is amended to read:

8259. This chapter shall remain in effect until January 1, 1995, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1995, deletes or extends that date.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The accelerating incidence of economic hardship experienced by women, often sole support of their children, and the increasing number of homeless women and children in California are causing grave hardships. In order to provide essential services to these women and children as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 1140

An act to add Chapter 1.5 (commencing with Section 12306) to Part 4.8 of Division 6 of the Water Code, and to amend Items 3600-001-176, 3860-001-001, and 3860-005-144 of, and to add Items 3860-001-176 and 3860-101-176 to, Section 2.00 of the Budget Act of 1991, relating to water, and making an appropriation therefor.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Chapter 1.5 (commencing with Section 12306) is added to Part 4.8 of Division 6 of the Water Code, to read:

CHAPTER 1.5. ENVIRONMENTAL MITIGATION AND PROTECTION REQUIREMENTS

12306. This chapter applies to special flood control projects subject to Chapter 2 (commencing with Section 12310) and to the payment of delta levee subventions under Part 9 (commencing with Section 12980).

12306.5. The Resources Agency shall supervise the implementation of the programs subject to this chapter.

12307. (a) The Resources Agency, the department, the Reclamation Board, and the Department of Fish and Game shall enter into a memorandum of understanding to coordinate the implementation of the programs subject to this chapter.

(b) The memorandum of understanding shall provide that the Department of Fish and Game shall enforce any mitigation requirements involving programs subject to this chapter.

12308. The Resources Agency shall report to the Legislature not later than January 15 of each year all of the following information for each plan approved pursuant to this part:

(a) The name of each local agency submitting a plan, the island or tract involved, and a map of the island or tract indicating the work and the mitigation sites.

(b) The amount of money allocated to the plan, and the amount of money spent on project construction and on project mitigation.

(c) The number of acres of riparian, wildlife, and fisheries habitat and the number of lineal feet of shaded aquatic areas disturbed by projects funded under this part.

(d) The number and quality of acres of replacement habitat provided as mitigation.

(e) An annual assessment as to whether the cumulative impact of projects funded pursuant to this part has resulted in no net long-term loss of riparian, wildlife, or fisheries habitat. If the Resources Agency determines that a net long-term loss has occurred, it shall include in

its assessment the necessary steps to correct those deficiencies.

SEC. 2. Item 3600-001-176 of Section 2.00 of the Budget Act of 1991 is amended to read:

3600-001-176—For support of Department of Fish and Game, for payment to Item 3600-001-200, payable from the Delta Flood Protection Fund 3,350,000

Provisions:

1. Of the funds appropriated in this item, $350,000 shall be spent solely for the purposes of carrying out the responsibilities of the Department of Fish and Game pursuant to Part 4.8 (commencing with Section 12980) and Part 9 (commencing with Section 12980) of Division 6 of the Water Code.
2. Of the funds appropriated in this item, $3,000,000 shall be spent to implement projects to compensate for damage to riparian, fisheries, and wildlife habitat that has occurred as a result of projects funded pursuant to Part 4.8 (commencing with Section 12980) and Part 9 (commencing with Section 12980) of Division 6 of the Water Code prior to July 1, 1991. The projects shall be designed and implemented to achieve the habitat protection standards established in Section 12987 of the Water Code.
3. The funds appropriated by this item shall be available to the Department of Fish and Game for the purposes specified in this item for the 1991–92, 1992–93, and 1993–94 fiscal years. Any funds not encumbered as of June 30, 1994, shall revert to the Delta Flood Protection Fund.

SEC. 3. Item 3860-001-001 of Section 2.00 of the Budget Act of 1991 is amended to read:

3860-001-001—For support of Department of Water Resources 31,034,000

Schedule:

(a) 10-Continuing Formulation of the California Water Plan	22,636,000
(b) 20-Implementation of the State Water Resources Development System	1,304,000
(c) 30-Public Safety and Prevention of Damage	22,979,000
(d) 40-Services	4,291,000

(e) 50.01-Management and Administration 47,672,000
(f) 50-02-Distributed Management and Administration ..... −47,672,000
(g) Reimbursements ..... −10,180,000
(gx) Unallocated trigger reduction .... −633,000
(h) Amount payable from the Special Account for Capital Outlay (Item 3860-001-036) ..... −100,000
(i) Amount payable from the California Environmental License Plate Fund (Item 3860-001-140) ..... −300,000
(ix) Amount payable from the California Water Fund (Item 3860-001-144) ..... −1,000,000
(j) Amount payable from the Delta Flood Protection Fund (Item 3860-001-176) ..... −1,050,000
(jx) Amount payable from the Delta Flood Protection Fund (Item 3860-001-176, Budget Act of 1989 as reappropriated by Item 3860-490, Budget Act of 1991) ..... −457,000
(k) Amount payable from the Environmental Water Fund (Item 3860-001-244) ..... −1,199,000
(*l*) Amount payable from the State Clean Water Bond Fund (Item 3860-001-740) ..... −61,000
(m) Amount payable from the Water Conservation and Water Quality Bond Fund (Item 3860-001-744) .. −255,000
(n) Amount payable from the Water Conservation Bond Fund of 1988 (Item 3860-001-790) ..... −679,000
(o) Amount payable from the Federal Trust Fund (Item 3860-001-890) .. −1,981,000
(p) Amount payable from the Renewable Resources Investment Fund (Item 3860-001-940) ..... −2,281,000

Provisions:

1. The amounts appropriated in Items 3860-001-001 to 3860-001-940, inclusive, shall be transferred to the Water Resources Revolving Fund (691) for direct expenditure in such amounts as the Department of Finance may authorize, including cooperative work with other agencies. The money so transferred shall be placed in a special account in that fund and shall not be available

for expenditure after June 30, 1992. Any unencumbered balances shall be returned to the appropriate funds as of June 30, 1992. Expenditures for technical services and general management charged to programs from all support appropriations for the Department of Water Resources in this act shall not exceed $20,591,000 and $22,428,000, respectively, without prior approval of the Department of Finance.

SEC. 4. Item 3860-001-176 is added to Section 2.00 of the Budget Act of 1991, to read:

3860-001-176—For support of Department of Water Resources, for payment to Item 3860-001-001, payable from the Delta Flood Protection Fund 1,050,000

Provisions:

1. Provision 1 of Item 3860-001-001 shall also be applicable to this item.

SEC. 5. Item 3860-005-144 of Section 2.00 of the Budget Act of 1991 is amended to read:

3860-005-144—For support of Department of Water Resources, payable from the California Water Fund, for transfer to the Delta Flood Protection Fund (12,000,000)

SEC. 6. Item 3860-101-176 is added to Section 2.00 of the Budget Act of 1991, to read:

3860-101-176—For local assistance, Department of Water Resources, Program 30.20-Flood Control Subventions, payable from the Delta Flood Protection Fund 5,600,000

Provisions:

1. The funds appropriated in this item shall be spent in accordance with, and subject to, the provisions of the Delta Flood Protection Act of 1988 (Chapter 28, Statutes of 1988).
2. The funds appropriated in this item may be spent on the recommended interim actions set forth in the Plan of Action for Flood Control for the Towns of Thornton and Walnut Grove, February 1989.

SEC. 7. It is the intent of the Legislature that the annual Budget Bill include, as a separate line item, sufficient funding for the Department of Fish and Game to carry out its responsibility pursuant to Chapter 2 (commencing with Section 12310) of Part 4.8 of, and Part 9 (commencing with Section 12980) of, Division 6 of the Water Code.

CHAPTER 1141

An act to add Section 4710 to the Civil Code, relating to child support.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. The Legislature hereby finds and declares, as follows:

(a) That the current ways and means of private and public enforcement of these support obligations are often frustrated by the sheer number of delinquent obligors and the insufficiency of available techniques to enforce child support when the legally obligated parent is self-employed, employed in the private sector, or changes jobs frequently.

(b) That even when existing public and private child support enforcement mechanisms are used, child support delinquencies nonetheless can endure for one year or more, potentially causing the obligee parent to be deprived of his or her own savings to pay for legal and household expenses, and in other cases, causing the obligee parent to be forced into receiving welfare assistance, thereby causing the state to incur additional expenses. During the child support delinquency the obligee parent may be unable to pay for food, clothing, or shelter for the dependent child or children, a situation which cannot be remedied in a timely manner by existing procedures available under Section 4701.1 of the Civil Code and other provisions of existing law. In addition, if the loss of child support extends beyond a brief period without access to immediate funds, the obligee parent is more likely to be coerced into unwise or unfair legal settlements or other decisions adversely affecting his or her legal rights.

(c) That the means of public and private enforcement of child support needs to be strengthened to a point of providing a quicker, less expensive, more certain means of collecting child support arrearages and maintaining the custodial family's standard of living while these arrearages are recovered using child support enforcement procedures provided in Section 4701.1 of the Civil Code and other provisions of existing law.

SEC. 2. This act shall be known and may be cited as the "Child

Support Security Act."

SEC. 3. Section 4710 is added to the Civil Code, to read:

4710. Notwithstanding any other provision of law:

(a) Except as provided in subdivision (d) or (e), every order or judgment to pay child support may also require the payment by the child support obligor of up to one year's child support or such lesser amount as is equal to the child support amount due to be paid by the child support obligor between the time of the date of the order and the date when the support obligation shall be terminated by operation of law. This amount shall be known as the "child support security deposit." In every case in which a child support security deposit is ordered, the court shall order that these moneys shall be deposited by the child support obligor in an interest-bearing account with a state or federally chartered commercial bank, a trust company authorized to transact trust business in this state, or a savings and loan association, or in shares of a federally insured credit union doing business in this state and having a trust department subject to withdrawal only upon authorization of the court. The court shall also order that evidence of the deposit shall be provided by the child support obligor in the form specified by the court, which shall be served upon the child support obligee and filed with the court within such reasonable time as specified by the court not to exceed 30 days. These moneys so deposited shall be used exclusively to guarantee the monthly payment of child support.

(b) Upon the verified application of the child support obligee verifying under penalty of perjury that the support payment is 10 or more days late, the court shall immediately order disbursement of funds from the account established pursuant to subdivision (a) solely for the purpose of providing the amount of child support then in arrears. Funds so disbursed shall be used exclusively for the support, maintenance, and education of the child or children subject to the child support order. The court shall also order the account to be replenished by the child support obligor in the same amounts as are expended from the account to pay the amount of child support which the child support obligor has failed to pay the child support obligee in a timely manner. The court shall cause a copy of the verified application, as well as its order to disburse and replenish funds, to be served upon the child support obligor, who shall be subject to contempt of court for failure to comply with the order. The court shall also cause a copy of its order to disburse and replenish funds to be served upon the depository institution where the child support security deposit is maintained, and upon the district attorney with jurisdiction over the case.

(c) Any account established pursuant to subdivision (a) shall be dissolved and any remaining funds in the account shall be returned to the support obligor, with any interest earned thereon, upon the full payment and cessation of the child support obligation as provided by court order or operation of law.

(d) Unless expressly waived by the child support obligee, the

court may order the establishment of a child support trust account pursuant to subdivision (a) in every action to establish paternity or for dissolution of a marriage in which a child support obligation is imposed by order of the court. Among other reasons, the court may decline to establish a child support trust account upon its finding that an adequately funded child support trust account already exists pursuant to subdivision (a) for the benefit of the child or children involved in the proceeding or that the child support obligor has provided adequate alternative security which is equivalent to the child support security deposit otherwise required by subdivision (a).

(e) Prior to entry of a child support order pursuant to subdivision (a), the court shall give the child support obligor reasonable notice and opportunity to file an application to reduce or eliminate the child support security deposit on the grounds that either (1) the obligor has provided adequate alternative equivalent security to assure timely payment of the amount required by subdivision (a), or (2) the obligor is unable, without undue financial hardship, to pay the support deposit required by subdivision (a). The application shall be supported by all reasonable and necessary financial and other information required by the court to establish the existence of either ground for relief. Upon the filing of such an application with the court and the service of the application upon the child support obligee and any other party to the proceedings, the court shall provide notice and opportunity for any parties opposing the application to file responsive financial and other information setting forth the factual and legal bases for the party's opposition. The court shall then provide an opportunity for hearing, and shall thereafter enter its order exercising its discretion under all the facts and circumstances as disclosed in the admissible evidence before it so as to maximize the payment and deposit of the amount required by subdivision (a), or an equivalent adequate security for the payment thereof, without imposition of undue financial hardship on the support obligor. In the event the court finds that the deposit of the amount required by subdivision (a) would impose an undue financial hardship upon the child support obligor, the court shall reduce this amount to an amount that the child support obligor can pay as the child support security deposit without undue financial hardship.

(f) "Child support obligee," as used in this section, means either the parent, guardian, or conservatee to whom child support has been ordered to be paid or the district attorney designated by the court to receive the payment. The district attorney shall be the "child support obligee" for the purposes of this section for all cases in which an application for services has been filed under Part D of Title IV of the Social Security Act (42 U.S.C. Sec. 651 et seq.). In any case where support for a minor child is ordered to be paid through the district attorney on behalf of a minor child not receiving public assistance pursuant to the Family Economic Security Act of 1982 (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code), the district attorney shall forward

the support received to the custodial parent or other person having care or control of the minor child or children involved.

(g) Except as provided in this subdivision, this section:

(1) Shall not apply to temporary child support orders.

(2) Shall apply to applications for modification of child support entered into on or after January 1, 1992, but shall not constitute the basis for the modification.

(3) Shall apply to applications for modification of child support in any case where the child support obligee has previously waived the establishment of a child support trust account pursuant to subdivision (d) and now seeks the establishment of that child support trust account.

(4) Shall apply to any order or judgment entered by the court on or after January 1, 1993, ordering a child support obligor to pay any then existing child support arrearage that the child support obligor has unlawfully failed to pay as of the date of that order or judgment, including the arrearages which were incurred prior to January 1, 1992.

SEC. 4. The Judicial Council shall promulgate such rules of court and publish such related judicial forms as they deem necessary and appropriate to implement this act. In taking these steps, the Judicial Council shall ensure the uniform statewide application of this act and compliance with Part D of Title IV of the Social Security Act (42 U.S.C. Sec. 651 et seq.) and any regulation promulgated thereunder.

SEC. 5. Nothing in this act shall be construed to permit any action or omission by the state or any of its political subdivisions that would place the state in noncompliance with any requirements of federal law, including, but not limited to, the state reimbursement requirements of Part D of Title IV of the Social Security Act (42 U.S.C. Sec. 651 et seq.) and any regulations promulgated thereunder.

SEC. 6. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1142

An act to amend Sections 15814.10, 15814.11, 15814.12, 15814.13, 15814.14, and 15814.16 of the Government Code, to amend Sections 25008 and 25008.5 of the Public Resources Code, and to amend Section 2821 of the Public Utilities Code, relating to water, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 15814.10 of the Government Code is amended to read:

15814.10. To help implement the policy set forth in Section 25008 of the Public Resources Code, the board may develop energy and water conservation and cogeneration and alternative energy and water supply sources at state facilities in accordance with this chapter.

The intent of the Legislature in enacting this chapter is to provide a mix of financing options for the development of cost saving state energy and water conservation projects. It is further the intent of the Legislature that, prior to using revenue bonds, the board consider other financing options available and the effect of the bond issuance on the bond market.

SEC. 2. Section 15814.11 of the Government Code is amended to read:

15814.11. For purposes of this part and Part 10.5 (commencing with Section 15750), the following terms have the following meanings:

(a) "Public building" means a public building as defined in Section 15802, and includes the cogeneration and alternative energy equipment, water conservation equipment, and conservation measures which the board is authorized by this chapter to acquire and construct.

(b) "Energy service contract" means a contract entered into by the board or any other state agency with any person, including, but not limited to, an individual, company, corporation, partnership, state agency, or other entity or group of entities, pursuant to which the person will provide electrical or thermal energy or water or water conservation or energy conservation measures.

(c) "Cogeneration equipment" means equipment for cogeneration, as defined in Section 218.5 of the Public Utilities Code.

(d) "Alternative energy equipment" means equipment for the production or conversion of energy from alternative sources, including, but not limited to, solar, biomass, wind, geothermal, hydroelectricity under 30 megawatts, or any other source of energy

or water, the efficient use of which will reduce the use of fossil or nuclear fuels or water from established sources of supply.

(e) "Conservation measures" means equipment, maintenance, meters, load management techniques and equipment, or other measures to reduce energy or water use or make for a more efficient use of energy or water.

(f) "State agency" means any state agency, board, department or commission, including, but not limited to, the entities specified in Section 15814.12.

(g) "Water conservation equipment" means any device or modification that reduces water use from established water sources.

SEC. 3. Section 15814.12 of the Government Code is amended to read:

15814.12. (a) Without obtaining the authorization required by Section 15808, the board may acquire, and to engage in the construction of, cogeneration equipment, alternative energy equipment, or conservation measures, and any combination thereof, and to enter into energy service contracts, at any structure, building, facility, site or work used, owned or hereafter acquired by the state agency, including, but not limited to, the facilities of the California State University and Colleges, the Department of General Services, state prisons, hospitals and other agencies and the community colleges, but only at the request or with the consent of the state agency.

(b) No cogeneration equipment or alternative energy equipment or water conservation equipment shall be acquired or constructed, and no energy service contract shall be entered into, by the board unless it determines that the anticipated cost to the state agency purchasing thermal or electrical energy or water provided by the equipment or under an energy service contract will be less than the anticipated marginal cost to the state agency of thermal or electrical energy or water that would have been consumed by the state agency in the absence of those purchases. Equipment, conservation measures, or energy service contracts shall be anticipated to provide cost savings to the state in each year during the term of any revenue bonds, notes, or energy service contracts issued or entered into pursuant to this part or Part 10.5 (commencing with Section 15750), except as otherwise authorized by the Legislature.

(c) Alternatively, the board may execute agreements to finance the construction of cogeneration equipment, alternative energy equipment, water conservation equipment, or conservation measures, and any combination thereof, by the state agency, including the University of California, to be owned by the state agency, in exchange for repayment of the financing and all costs and expenses related thereto from revenues resulting from sales of electricity or thermal energy or water from the facilities and measures or from funding which otherwise would have been used for purchase of electricity, water, and thermal energy required by the state agency but which is derived from the facilities and measures.

SEC. 4. Section 15814.13 of the Government Code is amended to read:

15814.13. The board may contract to sell or exchange electricity produced by cogeneration equipment and alternative energy equipment acquired by the board to or with any investor-owned utility or municipal utility or state agency, at those rates and upon those terms that are approved by the board. Any contract may provide for a commitment of firm electrical capacity. The board may also contract to sell or exchange water or thermal energy produced by cogeneration or alternative energy equipment or water conservation equipment acquired by the board to or with any investor-owned utility or municipal utility, state agency, or any other person, at those rates and upon those terms that are approved by the board. This electricity, water, and thermal energy may be sold to or exchanged with nonstate purchasers only if the board determines that these sales or exchanges will increase the economic benefit to the state. The board may contract to provide conservation services through the use of conservation measures to any state agency at those rates and upon those terms that are approved by the board.

SEC. 5. Section 15814.14 of the Government Code is amended to read:

15814.14. (a) Any state agency may enter into a contract with the board for the purchase or exchange of thermal or electrical energy or water, or to acquire conservation services through the use of conservation measures, for a term not exceeding 35 years, at those rates and upon those terms that are approved by the agency and the board.

(b) The Department of General Services, with the consent of the state agency having jurisdiction over the property, or any other state agency with the approval of the Department of General Services, may lease as lessor for terms of up to 35 years any structure, building, facility, work, or land, owned or acquired by the agency, to any person, including the board, to permit the board to enter into an energy service contract with that person, or to permit the board to undertake other projects authorized under this chapter, at those rates and upon those terms that may be approved by the state agency and the board.

SEC. 6. Section 15814.16 of the Government Code is amended to read:

15814.16. Any amount necessary to pay monthly for electrical or thermal energy or water or conservation measures for any state agency under an energy service contract, or to pay for conservation measures or electrical or thermal energy or water received by any state agency from cogeneration or alternative energy equipment authorized to be constructed or acquired under this part or Part 10.5 (commencing with Section 15750), is hereby appropriated each fiscal year payable from the fund in the State Treasury from which an agency derives its appropriation for support, and shall become available only if the Department of Finance certifies to the

Controller that the amount required monthly to pay these charges has not been included in the Budget Act for that fiscal year for the support of the agency for these services. Also, in order for the appropriation to be available, the board shall certify that the payments for the year in question are anticipated to be less than would result from the purchase of electrical or thermal energy or water avoided by purchases under this part or Part 10.5 (commencing with Section 15750). The appropriation herein made shall become inoperative as to any public building which is transferred to the jurisdiction of the Department of General Services or another state agency pursuant to Section 15814.17 or 15816.

SEC. 7. Section 25008 of the Public Resources Code is amended to read:

25008. It is further the policy of the state and the intent of the Legislature to promote all feasible means of energy and water conservation and all feasible uses of alternative energy and water supply sources.

The Legislature finds and declares that the State of California has extensive physical and natural resources available to it at state-owned sites and facilities which can be substituted for traditional energy supplies or which lend themselves readily to the production of electricity or water. Due to increases in energy and water costs, the state's expenditures for energy and water have also increased, adding to the burden on California taxpayers and reducing the amount of funds available for other public purposes.

It is in the best interest of the state to use these resources when it can be demonstrated that long-term cost, water, and energy use reduction will result, and where increased independence from other fuel and water sources and development of additional revenues for the state may be obtained.

Therefore, in recognition of recent and projected increases in the cost of energy and water from traditional sources, it is the policy of the state to use available resources at state facilities which can substitute for traditional energy and water supplies or produce electricity or water at its facilities when use or production will reduce long-term energy or water expenditures. Criteria used in analysis of proposed actions shall include lifecycle cost evaluation, benefit to taxpayers, reduced fossil fuel or reduced water consumption depending on the application, and improved efficiency. Energy or water facilities at state-owned sites shall be scaled to produce optimal system efficiency and best economic advantage to the state. Energy or water produced may be reserved by the state to meet state facility needs or may be sold to state or nonstate purchasers.

Resources and processes which may be used to substitute for traditional energy and water supplies and for the purpose of electrical generation at state facilities include, but are not limited to, cogeneration, biomass, wind, geothermal, vapor compression, water reclamation, and solar technologies.

It is the intent of the Legislature that no policy in this section,

expressed or implied, be in conflict with existing state or federal regulations regarding the production or sale of electricity or water, and that this policy be just and reasonable to utility ratepayers.

SEC. 8. Section 25008.5 of the Public Resources Code is amended to read:

25008.5. (a) The Legislature hereby finds and declares that in order to maximize public benefit from private sector participation in state operations and to maximize the Legislature's ability to devote limited resources of the state to the responsibilities of state government that are less attractive to private sector investment, it is the policy of the state to encourage third-party financing of energy and water projects, including, but not limited to, cogeneration facilities, at state-owned sites.

(b) The Legislature further finds and declares that the development of energy and water projects at state-owned sites can be accelerated where reasonable incentives are provided to the siting institutions. These incentives are necessary to offset the long-term administrative, operational, and technical complexities of energy and water projects developed under this section. Reasonable incentives for implementing the policy of this section shall include the sharing of benefits derived from energy and water projects between the state and the siting institution. The benefits to the state and siting institutions derived from projects implemented under this section may include, but are not limited to, annual cash revenues, avoided capital costs, reduced energy costs, reduced water costs, site improvements, and additional operations and maintenance resources. The annual cash revenues derived from those projects shall be shared equally between the state and the siting institution, if both of the following conditions are met:

(1) The use of cash and avoided cost benefits by siting institutions is to be limited to improvement of ongoing maintenance, deferred maintenance, cost-effective energy improvements, and other infrastructure improvements. To the extent an institution receives annual cash revenues under this section, the institution shall retain any money it receives, but not to exceed one-half of this amount, in a special deposit fund account, which shall be continuously appropriated to the institution for the purposes of this section. The state's benefit share, and the siting institution's benefit share that exceeds its needs, shall be deposited in the Energy and Resources Fund or, if this fund is not in existence, the General Fund for the purpose of investing in renewable resources programs and energy efficiency improvements at state facilities.

(2) The use of benefits shall be in addition to, and shall not supplant or replace, funding from traditional sources for a siting institution's normal operations and maintenance or capital outlay budgets.

(c) The Legislature further finds and declares that a benefit-sharing incentive is applicable to energy projects reported to, or authorized by, the Legislature pursuant to Section 13304 or

14671.6 of the Government Code. This section shall not apply to energy projects which are constructed on or at facilities or property of the State Water Resources Development System.

(d) Commencing on January 1, 1986, the Department of General Services shall submit annual reports to the Legislature on the cost benefit aspects in carrying out this section.

(e) This section shall remain in effect only until January 1, 2000, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2000, deletes or extends that date.

SEC. 8.5. Section 2821 of the Public Utilities Code is amended to read:

2821. (a) The commission shall approve and establish equitable charges to be paid by an electrical corporation which purchases electricity or electrical generating capacity, or both, from any private energy producer employing other than a conventional power source for the generation of electricity.

(b) The commission, on its own motion or on application of an electrical corporation or a private energy producer, may also specify the prices, terms, and conditions for the purchase or sale of electricity or electrical generating capacity, or both, between an electrical corporation and a private energy producer, and these prices, terms, and conditions, so specified, shall be considered reasonable and prudent for all purposes. The commission may act to specify these prices, terms, and conditions on its own motion or on application of an electrical corporation or a private energy producer.

(c) Every contract, whether executed on or after January 1, 1988, or prior to that date, for the purchase of electricity or electrical generating capacity, or both, by an electrical corporation from a private energy producer employing hydroelectric facilities shall require proof of compliance by the private energy producer with all state laws relating to the control, appropriation, use, and distribution of water, including, but not limited to, the obtaining of applicable licenses and permits. For these purposes, the electrical corporation shall require the private energy producer to provide proof of either of the following:

(1) Certification from the State Water Resources Control Board that a water right permit has been issued for the operation of the hydroelectric facility. No certification shall be issued unless, in applying for the certification, the applicant agrees in writing to comply with all terms and conditions of the permit.

(2) Certification from the State Water Resources Control Board that, in the opinion of the board, the private energy producer possesses riparian rights or other water rights which authorize the operation of the hydroelectric facility.

The requirements of this subdivision shall apply only to contracts involving hydroelectric projects which have not commenced commercial operation prior to May 18, 1987.

(d) For purposes of meeting the requirements of subdivision (c) or providing certification required under Section 26013 of the Public

Resources Code, the private energy producer shall furnish information as is reasonably required by the State Water Resources Control Board to document a claim of right. Every private energy producer requesting certification from the board pursuant to subdivision (c) or Section 26013 of the Public Resources Code shall pay to the board at the time of filing a certification fee of two hundred fifty dollars ($250) to cover the reasonable cost of the board in evaluating and processing the certification request.

(e) (1) Every contract in violation of subdivision (c) is void and unenforceable on and after whichever of the following dates applies:

(A) February 29, 1988, for contracts involving hydroelectric projects which commence commercial operation on or after May 18, 1987, and prior to January 1, 1988.

(B) The 60th day after commencement of commercial operation for contracts involving hydroelectric projects which commence commercial operation on or after January 1, 1988.

(2) The commission shall disallow, for purposes of establishing rates for an electrical corporation, all amounts expended for the purchase of electricity pursuant to a contract which is void and unenforceable under this subdivision.

(3) Paragraph (1) does not apply to any private energy producer if all of the following conditions are met:

(A) The electrical corporation did not make timely written demand for the proof of compliance required by paragraph (1) of subdivision (c).

(B) On or before the date commercial production commenced, the private energy producer was in fact in compliance with all applicable state laws relating to the control, appropriation, use, and distribution of water, including, but not limited to, those laws that require the obtaining of all applicable licenses and permits.

(C) Prior to the effective date of this paragraph, the private energy producer has provided proof of the applicable certification from the State Water Resources Control Board pursuant to paragraph (1) of subdivision (c), which proof contains further certification from the State Water Resources Control Board of the existence of the condition identified in subparagraph (B).

SEC. 9. (a) The Legislature hereby finds and declares that, in order to meet the minimum safe drinking water standards established pursuant to Chapter 7 (commencing with Section 4010) of Part 1 of Division 5 of the Health and Safety Code, there is an immediate need to improve the water systems of the entities identified in this act to enable residents of those communities to have a dependable and potable water supply.

(b) The Legislature further finds and declares that those water systems have critical deficiencies in the areas of treatment, storage, and distribution which pose a serious threat to the public health and welfare of all consumers within those communities and that each entity presently is only minimally meeting the demand for water within their respective communities.

SEC. 10. Pursuant to subdivision (e) of Section 14011 and Section 14012 of the Water Code, the Department of Water Resources may make grants from the California Safe Drinking Water Bond Fund in accordance with the California Safe Drinking Water Bond Law of 1988 (Chapter 16 (commencing with Section 14000) of Division 7 of the Water Code), to the following agencies for purposes of financing proposed projects and investigations to identify alternatives for system improvements:

(a) Amador County Water Agency for the Clinton system.

(b) Amador County Water Agency for the Hillside system.

(c) Amador County Water Agency for the Sunnybrook system.

(d) Amador County Water Agency for the No. 104 system.

(e) City of Atwater.

(f) Crows Landing Community Services District.

(g) City of Dinuba for the Griggs Neighborhood Water Association project.

(h) Elsinore Water District.

(i) Georgetown Divide Public Utility District for the Shadle pipeline project.

(j) Heritage Community Services District for the Heritage Ranch project.

(k) Hilmar County Water District.

(*l*) Julian Community Services District.

(m) Lamont Public Utility District.

(n) Laytonville County Water District.

(o) City of Lindsay.

(p) Lompico County Water District.

(q) Madera County for the North Fork Water system for the Weatherly Mutual Water Company/Deer Park water system consolidation project.

(r) City of Modesto.

(s) Mono County Service Area No. 5 for the Twin Lakes project.

(t) Nevada Irrigation District for the Jewel/Sidman-Hile Improvement District project.

(u) Nevada Irrigation District for the Rock Creek Improvement District project.

(v) North Edwards Water District for the Welchs and Williamson treatment plant consolidation project.

(w) Paradise Irrigation District.

(x) City of Parlier.

(y) City of Reedley.

(z) Richgrove Community Services District.

(aa) Riverdale Public Utility District.

(bb) Riverside Community Services District.

(cc) San Lorenzo Valley Water District.

(dd) City of Shafter for the Burbank Water Association project.

(ee) City of Shafter for the Cherokee Strip Neighborhood Association project.

(ff) City of Shafter for the North Park Water Company project.

(gg) City of Shafter for the Good Water system.

(hh) Shasta County Community Services Department for the Spring Gulch project.

(ii) Sutter County for the Meridian Water system.

(jj) Timber Cove County Water District.

(kk) Ventura County Public Works Agency for the El Rio system.

(*ll*) Ventura County Water Works District No. 16 for the Rissman project.

SEC. 11. The Department of Water Resources shall determine eligibility for, and the amount of, any grant authorized in Section 3 of this act, in accordance with the California Safe Drinking Water Bond Law of 1988 (Chapter 16 (commencing with Section 14000) of Division 7 of the Water Code) and may make those grants in accordance with the bond law.

SEC. 12. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to encourage water conservation and authorize the acquisition of alternative water supply sources at state facilities and to authorize grants from the California Safe Drinking Water Fund to the entities identified in this act to remedy the critical water supply problems of those communities at the earliest possible time, thereby protecting the public health and safety, it is necessary that this act take effect immediately.

CHAPTER 1143

An act relating to granted lands within the Mission Bay Development Area, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. As used in this act:

(a) "Boundary of the Port of San Francisco" means that line defining the boundary of Parcel "A" in the description of the lands transferred in trust to the City and County of San Francisco pursuant to Chapter 1333 of the Statutes of 1968 recorded on May 14, 1976, in Book C169, pages 573 through 664 in the City and County of San Francisco Recorder's Office.

(b) "Burton Act trust" means the statutory trust imposed by the Burton Act (Chapter 1333 of the Statutes of 1968, as amended), pursuant to which the state conveyed to the City and County of San Francisco, in trust, by transfer agreement, and subject to certain

terms, conditions, and reservations, the state's interest in certain tide and submerged lands, including lands within the Mission Bay Development Area.

(c) "City" means the City and County of San Francisco, a municipal corporation of the State of California, and where necessary to effectuate the land exchanges contemplated in this act, the city acting by and through the San Francisco Port Commission.

(d) "Granted tidelands" means tidelands or submerged lands, or any interest therein, located within the Mission Bay Development Area and heretofore conveyed or conveyed pursuant to this act by the state to the city.

(e) "Mission Bay Development Area" means those lands within the city which are located in the city above the present line of mean high tide and enclosed by a line beginning at the intersection of the northerly line of Mariposa Street with the easterly line of Pennsylvania Street running thence from that point of intersection easterly along the northerly line of Mariposa Street north 86°49'04" east 940.17 feet; thence leaving that northerly line of Mariposa Street north 3°10'56" west 433.04 feet; thence easterly and parallel with that northerly line of Mariposa Street north 86°49'04" east 280.00 feet; thence north 3°10'56" west 433.04 feet to the southerly line of Sixteenth Street; thence easterly along that southerly line of Sixteenth Street north 86°49'04" east 100.00 feet to the westerly line of Third Street; thence southerly along the westerly line of Third Street south 3°10'56" east 866.08 feet to that northerly line of Mariposa Street; thence easterly crossing Third Street and running along that northerly line of Mariposa Street north 86°49'04" east 360.00 feet to the easterly line of Illinois Street; thence southerly along that easterly line of Illinois Street south 3°10'56" east 129.85 feet; thence leaving that easterly line of Illinois Street and running along the easterly line of the existing street known as China Basin Street the following courses: north 35°06'05" east 616.30 feet; thence northeasterly along an arc of a curve to the left tangent to the preceding course with a radius of 440.00 feet through a central angle of 12°49'53" an arc distance of 98.54 feet; thence tangent to the preceding curve north 22°16'12" east 700.07 feet; thence northerly along an arc of a curve to the left tangent to the preceding course with a radius of 340.00 feet through a central angle of 12°28' an arc distance of 73.98 feet; thence tangent to the preceding curve north 9°48'12" east 86.42 feet; thence northerly along the arc of a curve to the left tangent to the preceding course with a radius of 340.00 feet, through a central angle of 11°58'09" an arc distance of 71.03 feet; thence tangent to the preceding curve north 2°09'57" west 121.43 feet; thence north 3°10'56" west 198.86 feet; thence north 2°19'47" west 292.70 feet; thence northwesterly along an arc of a curve to the left tangent to the preceding course with a radius of 481.57 feet through a central angle of 24°30'49" an arc distance of 206.04 feet; thence tangent to the preceding curve north 26°50'36" west 402.03 feet; thence northwesterly along an arc of a curve to the right tangent to the

preceding course with a radius of 236.29 feet, through a central angle of 9°00'04" an arc distance of 37.12 feet; thence tangent to the preceding curve north 17°50'32" west 679.08 feet; thence south 86°49'04" west 282.38 feet; thence north 17°34'00" west 145.34 feet; thence north 72°26'00" east 13.36 feet; thence north 3°10'56" west 634.51 feet; thence south 86°49'04" west 112.12 feet; thence north 3°10'56" west 200.00 feet; thence north 47°36'05" east 456.59 feet; thence south 86°49'04" west 603.75 feet; thence south 64°21'26" west 108.21 feet to the point of intersection of the westerly line of Third Street with the southerly line of China Basin channel; running thence along southerly line of China Basin channel south 46°18'07" west 772.98 feet to the easterly line of Fourth Street; thence along that easterly line of Fourth Street north 43°41'53" west 440.00 feet to the southerly line of Berry Street; thence easterly along that southerly line of Berry Street north 46°18'07" east 825.95 feet to the westerly line of Third Street; thence northwesterly along that westerly line of Third Street north 43°41'53" west 667.50 feet to the southerly line of Townsend Street; thence southwesterly along that southerly line of Townsend Street south 46°18'07" west 3,549.21 feet to the easterly line of Seventh Street; thence southeasterly along the easterly line of Seventh Street south 43°41'53" east 3,166.68 feet to a point on the easterly line of Pennsylvania Street; thence southerly along that easterly line of Pennsylvania Street south 3°10'56" east 556.59 feet to the point of beginning and contains 319.397 acres of land, more or less.

Excepting therefrom the following described parcels:

Exception - Parcel 1

Beginning at the intersection of the southerly line of Sixteenth Street with the easterly line of Third Street and continuing along the easterly line of Third Street north 3°10'56" west 1,342.00 feet to the true point of beginning of the parcel herein described; thence continuing northerly along that easterly line of Third Street north 3°10'56" west 496.00 feet; thence leaving that easterly line of Third Street north 86°49'04" east 74.00 feet; thence southerly and parallel to that easterly line of Third Street south 3°10'56" east 496.00 feet; thence south 86°49'04" west 74.00 feet to the true point of beginning and containing 0.843 acres of land, more or less.

Exception - Parcel 2

Beginning at the intersection of the southerly line of Sixteenth Street with the easterly line of Third Street and continuing easterly along that southerly line of Sixteenth Street north 86°49'04" east 260.00 feet to the true point of beginning of the parcel herein described; thence continuing along the easterly prolongation of the southerly line of Sixteenth Street north 86°49'04" east 335.00 feet; thence leaving that easterly prolongation of southerly line of Sixteenth Street south 14°29'32" east 107.08 feet; thence parallel to that easterly line of Third Street south 3°10'56" east 232.00 feet; thence south 26°50'57" west 165.18 feet; thence south 86°49'04" west 273.33 feet to a point on the easterly line of Illinois Street; thence

continuing along that easterly line of Illinois Street north 3°10'56" west 480.00 feet to the true point of beginning and containing 3.762 acres of land, more or less.

The bearings herein are based upon the bearing north 43°41'53" west on the northeasterly line of Seventh Street as shown on CalTrans right-of-way map no. R-174.14 and as shown on that certain Record of Survey Map of Mission Bay prepared by KCA Engineers, Inc. dated July 1990, and consisting of 21 sheets, which Record of Survey shall be filed with the State Lands Commission within 180 days of the effective date of this act.

(f) "Mission Bay Specific Plan" means that certain specific plan enacted by the planning commission of the city in satisfaction of the requirements of Article 8 (commencing with Section 65450) of Chapter 3 of Division 1 of Title 7 of the Government Code and the requirements of the charter of the city by Resolution No. 12040, dated September 27, 1990, and by Resolution No. 13017, dated February 14, 1991.

(g) "Public trust" means the public trust for commerce, navigation, and fisheries.

SEC. 2. The Legislature hereby finds and declares as follows:

(a) Certain of the lands within the Mission Bay Development Area are tide or submerged lands which have been filled and reclaimed.

(b) The filled and reclaimed tide and submerged lands within the Mission Bay Development Area are useful for and in connection with, the highly beneficial plan of improvement for harbor development represented by the Mission Bay Specific Plan and related plans for developing consolidated modern port facilities outside the Mission Bay Development Area.

(c) Certain of the tide and submerged lands within the Mission Bay Development Area have been authorized to be, and have been, laid off and sold to private parties pursuant to various acts, including Chapter 41 of the Statutes of 1851, Chapter 160 of the Statutes of 1853, Chapter 543 of the Statutes of 1867–68; Chapter 490 of the Statutes of 1871–72; Chapter 265 of the Statutes of 1903, Chapter 434 of the Statutes of 1947, and Chapter 1252 of the Statutes of 1953.

(d) Certain of the streets originally laid out within the Mission Bay Development Area are filled and not used, suitable, or necessary for navigation purposes and certain portions of those streets are not necessary for street purposes.

(e) Section 3 of Article X of the California Constitution allows the sale to any city, city and county, municipal corporation, private person, partnership, or corporation of tidelands reserved to the state solely for street purposes, which tidelands the Legislature finds and declares are not used and not necessary for navigation purposes, subject to such conditions as the Legislature may establish.

(f) There is a dispute between the city and the state with respect to the extent to which certain street areas within the Mission Bay Development Area may be subject to the public trust or other

encumbrances that may have arisen because the lands were once sovereign lands of the state. The state contends that a total of approximately 40 disputed acres within the Mission Bay Development Area was (1) reserved to the state for street purposes, and (2) is held by the city subject to the public trust. The city contends that it holds those disputed street areas in fee simple free of the public trust or any other such encumbrances. It is in the public interest that this dispute be resolved in a manner that furthers public trust purposes.

(g) The existing fragmented pattern of public and private ownership within the Mission Bay Development Area, especially the industrial area street system and parcelization imposed on the area largely as the result of subdivisions and sales in the latter half of the 19th century, limit both the potential development of the area and the expansion of desirable public uses in the area consistent with the public trust and the Burton Act trust, such as open space and parks along the waterfront and elsewhere within the Mission Bay Development Area, public access to the shoreline, and consolidated, modern facilities for the city. Therefore, the city has developed and adopted the Mission Bay Specific Plan, and the city has negotiated a development agreement pursuant to Article 2.5 (commencing with Section 65864) of Chapter 4 of Division 1 of Title 7 of the Government Code with the current private owner of most of the real property within the Mission Bay Development Area to enable the redevelopment of the Mission Bay Development Area; to respond to and rectify the existing limitations on public trust uses which prevent implementation of the Mission Bay Specific Plan; and to facilitate development of consolidated, modern port facilities outside the Mission Bay Development Area. The Mission Bay Specific Plan and the development agreement approved by the city for the development of the Mission Bay Development Area contemplate that certain lands in dispute with the state and certain other lands subject to the public trust or the Burton Act trust shall be conveyed free of those trusts to the current private owner of most of the real property within the Mission Bay Development Area, and the public trust and the Burton Act trust over certain other lands shall be terminated, in exchange for (1) the conveyance to the city subject to the public trust and the Burton Act trust of certain lands owned by that private owner, or the conveyance to the city of an easement over those lands which will permanently subject the lands to the public trust and the Burton Act trust, (2) the conveyance to the city of an easement over certain other lands in private ownership which will permanently encumber those lands with the public trust, and (3) the agreement by the city that certain of the street areas in dispute with the state and other areas shall be permanently subjected to the public trust by easement or otherwise. In preparing the Mission Bay Specific Plan, the city has considered present and future public trust and Burton Act trust needs and the purposes for which the city holds or may hold property subject to those trusts within the

Mission Bay Development Area. The Mission Bay Specific Plan and that development agreement demonstrate that (1) those lands within the Mission Bay Development Area to be devoted to nonpublic trust purposes or purposes other than those stated in the Burton Act are no longer needed or required for public trust purposes or those purposes provided for in the Burton Act, and (2) the lands to be conveyed to the city, or which will be encumbered by a public trust easement, or which the city will agree to permanently subject to the trust, will be devoted to trust uses as provided for in the Mission Bay Specific Plan and other related plans for maritime development and will, therefore, be highly useful for public trust purposes and Burton Act trust purposes. Specifically, through acquisition of privately owned lands in the pier 70 through 80 area of the city, the city will be able to develop between four and nine container berths in the pier 70 through 80 area. Combining facilities in the pier 70 through 80 area through acquisition of those privately owned lands will also allow the city to take advantage of the existing container-oriented and intermodal infrastructure at piers 80 and 94–96, including the intermodal container transfer facility. In the Mission Bay Development Area, on the other hand, the consolidation of ownerships and the provision by the city of certain additional real property to be developed for public recreational use pursuant to license, together with the toxic remediation of all real property to be subjected to the public trust or the Burton Act trust or to be developed for recreational use will permit the development, pursuant to the Mission Bay Specific Plan, of improved open space, public access, waterfront parks, and other public facilities consistent with the public trust and the Burton Act trust. This development would otherwise not be feasible because of existing ownership patterns and lack of city funds. The consolidation of ownerships referred to in this section will also be facilitated by the resolution of the dispute with the state over the extent to which the street areas within the Mission Bay Development Area are subject to the public trust. It is intended that the resolution of that dispute and the consolidation of public and private ownerships will be accomplished by and through the exchanges of lands previously referred to. These exchanges shall be for the purpose of effectuating the public trust uses provided for in the Mission Bay Specific Plan and related plans for developing consolidated modern port facilities. The proposed exchanges will not interfere with, and will, in fact, be consistent with and further the purposes of the public trust and the Burton Act trust provided that:

(1) The value of the lands or interests in lands to be conveyed to the city and subjected to the public trust or the Burton Act trust, the value of the public trust easement to be conveyed to the city over certain other lands, and the value of the public trust interest created by the agreement of the city that certain of the street areas in dispute with the state and other areas shall be subjected to the public trust by easement or otherwise exceed the value of the lands to be

conveyed by the city and the value of the public trust or Burton Act trust interest to be terminated pursuant to those exchanges.

(2) The lands or interests in lands to be exchanged by the city and over which the public trust or the Burton Act trust or both will be terminated have been filled and reclaimed, those parcels consisting entirely of dry land lying above the present ordinary high water mark, and are not necessary for the highly beneficial program for development of the harbor and waterfront of the city represented by the Mission Bay Specific Plan and related plans for developing consolidated modern port facilities.

(3) The lands to be exchanged by the city and over which the public trust or the Burton Act trust or both will be terminated are nonwaterfront, having been cut off from direct access to the waters of San Francisco Bay by past filling of intervening property or by a major roadway (China Basin Street), which has provided, and will continue to provide, lateral public access to the water along the entirety of the Mission Bay Development Area.

(4) The lands to be exchanged by the city and over which the Burton Act trust or the public trust or both will be terminated constitute a relatively small portion of the tide and submerged lands granted to the city.

(5) The lands to be exchanged by the city and over which the public trust or the Burton Act trust or both will be terminated are no longer needed or required for the promotion of the public trust or the Burton Act trust.

(h) Substantial portions of the approximately 40 acres of granted tidelands in dispute within the Mission Bay Development Area to be conveyed into private ownership were reserved to the state for street purposes and are not used or necessary for navigation purposes, and therefore under Section 3 of Article X of the California Constitution can and should be conveyed into private ownership for uses consistent with and in furtherance of the Mission Bay Specific Plan.

(i) It is therefore the intent of the Legislature, on and subject to the terms and conditions set forth in this act, (1) to authorize, ratify, and confirm any agreement by the city to enter into an exchange or exchanges of granted tidelands and to terminate the public trust or the Burton Act trust or both over granted tidelands consistent with the findings and declarations stated in this act, and (2) to authorize the city to dispose of any and all granted tidelands originally laid out and reserved to the state for street purposes for private use free from those trusts consistent with and in furtherance of the Mission Bay Specific Plan.

SEC. 3. For the purposes of effectuating the exchanges of lands referred to in subdivision (g) of Section 2, including the conveyance of certain of those lands by the city free of the public trust and the Burton Act trust, the State Lands Commission is hereby authorized to grant and convey to the city all of the right, title, and interest held by the state by virtue of its sovereignty, including any public trust

interest or Burton Act trust interest, and not heretofore conveyed, in and to all of the filled tidelands and submerged lands within the Mission Bay Development Area, subject to such reservations as the State Lands Commission may deem appropriate.

SEC. 4. (a) Subject to the requirements for action by the State Lands Commission specified in subdivision (b), whenever it is determined by the city that any portions of the granted tidelands are cut off from access to the waters of San Francisco Bay, constitute a relatively small portion of the tide and submerged lands granted to the city, and are no longer needed or required for the promotion of the public trust for commerce, navigation, and fisheries or the Burton Act trust or both; and when it is further determined that no substantial interference with those trust uses and purposes will ensue; and when it is further determined that an exchange of those lands and the termination of the public trust or the Burton Act trust will be consistent with the findings and declarations contained in Section 2, the city may terminate the public trust or the Burton Act trust, or both, over those portions of the granted tidelands or exchange those portions of the granted tidelands, or any interest in those lands, to any state agency, political subdivision, person, entity, or corporation, or the United States, or any agency thereof, for lands or interests in lands of equal or greater value, including lands that are or may be subject to the public trust or lands in dispute with the state which the city agrees to subject to the public trust or the Burton Act trust or both, which are useful for public trust or Burton Act trust purposes.

(b) No such exchange and trust termination shall be effective unless and until the State Lands Commission, at a regular open meeting with the proposed exchange and trust termination as a properly scheduled agenda item, does or has done both of the following:

(1) Finds, or has found, that the lands or interests in lands to be acquired by the city and the value of the public trust or Burton Act trust interest to be created by agreement of the city have a value equal to or greater than the value of the granted tidelands for which they are to be exchanged and the value of the granted tidelands over which the public trust or the Burton Act trust or both will be terminated.

(2) Adopts, or has adopted, a resolution approving the proposed exchange, and trust termination which finds and declares that the granted tidelands to be exchanged and over which the public trust or the Burton Act trust or both will be terminated have been filled and reclaimed, are cut off from access to the waters of San Francisco Bay, constitute a relatively small portion of the tide and submerged lands granted to the city, and are no longer needed or required for the promotion of the public trust or the Burton Act trust; and, further, that no substantial interference with the public trust or Burton Act trust uses and purposes will ensue by virtue of the exchange and trust termination; and, further, that the exchange and

trust termination is consistent with the findings and declarations in Section 2 and in the best interests of the state and the city. Upon adoption of the resolution, or at such time as may otherwise be specified in the resolution, the granted tidelands to be exchanged and with respect to which the public trust or the Burton Act trust or both are to be terminated shall thereupon be free from the public trust or the Burton Act trust or both.

SEC. 5. (a) In addition to the authorization contained in Section 4, the city is hereby authorized pursuant to Section 3 of Article X of the California Constitution to sell to any private person, partnership, or corporation, with the approval of the State Lands Commission as specified in subdivision (b), any and all portions of the granted tidelands which were laid off and reserved to the state for street purposes.

(b) No such sale shall be effective unless and until the State Lands Commission, at a regular open meeting with the proposed sale as a properly scheduled agenda item, does or has done, both the following:

(1) Finds, or has found, that any consideration to be received by the city is equal to or greater than the value of the portions of granted tidelands which are to be sold.

(2) Adopts, or has adopted, a resolution approving the sale which finds and declares that the granted tidelands to be sold have been filled and reclaimed, are cut off from access to the waters of San Francisco Bay, and are no longer needed or required for the promotion of the public trust or the Burton Act trust; and, further, that no substantial interference with the public trust or Burton Act trust uses and purposes will ensue by virtue of the sale; and further that the sale is consistent with the findings and declarations in Section 2 and the sale is in the best interests of the state and city. Upon adoption of the resolution, or at such time as may otherwise be specified in the resolution, the granted tidelands to be sold shall thereupon be free from the public trust or the Burton Act trust or both.

SEC. 6. The city is hereby authorized to settle by agreement, exchange, or quitclaim, any dispute concerning whether or not particular land within the Mission Bay Development Area constitutes land in private or proprietary ownership by reason of title traceable to a state patent or other valid source, or rather constitutes granted tidelands, title to which is vested in the city. In the settlement of that dispute, the city may, by that agreement, exchange, or quitclaim, establish boundary or compromise boundary lines between granted tidelands and bordering private or proprietary lands. No settlement by agreement, exchange, or quitclaim pursuant to this section shall be effective unless and until the State Lands Commission, at a regular open meeting with that settlement as a properly scheduled agenda item approves or has approved this settlement.

SEC. 7. In determining the value of any granted tidelands to be

sold, exchanged, or conveyed under this act, the city and the State Lands Commission shall give effect in their evaluation to all factors bearing upon the value, if any, of the public's interest being conveyed, released, quitclaimed, or settled, and the rights, claims, and equities of the person in whose favor the conveyance, release, quitclaim, or settlement is being made and their predecessors in interest. In those cases where the granted tidelands have been filled, reclaimed, or improved without the expenditure of either state funds or of public moneys held in trust, the lands may be valued by excluding the value of the fill or improvements or both. Consideration under this act may consist of lands, property, interest in property, easements, moneys, or other things of value given by the grantee or any other person.

SEC. 8. Any lands, or interests therein, received by the city pursuant to any exchange authorized by this act and located within the boundary of the Port of San Francisco or located outside the Mission Bay Development Area shall be held by the city subject to the Burton Act trust and subject to those exceptions and reservations to the state, including, but not limited to, subsurface mineral deposits, contained in Chapter 1333 of the Statutes of 1968, as amended, as if those lands had been transferred to the city pursuant to the provisions of Chapter 1333 of the Statutes of 1968, as amended. Any lands, or interests therein, received by the city outside the boundary of the Port of San Francisco but within the Mission Bay Development Area pursuant to any exchange authorized by this act shall be held by the city subject to the public trust and for the purposes of effectuating the public trust uses provided for in the Mission Bay Specific Plan, except for those lands or interests in lands with respect to which the public trust or the Burton Act trust is terminated pursuant to the exchange.

SEC. 9. The city is hereby authorized to make minor adjustments by agreement, exchange, or quitclaim in the location of the boundaries between lands that are subject to the public trust or the Burton Act trust and lands that are not subject to those trusts, whether the lands are privately owned or owned or held by the city, as such boundaries may be established pursuant to any agreements approved by the State Lands Commission with respect to the granted tidelands or any other lands within the Mission Bay Development Area, provided as follows:

(a) The city determines that any such adjustment does not result in any significant net reduction in either the area or value of lands subject to the public trust or the Burton Act trust within the Mission Bay Development Area or in any significant impairment of the public trust uses provided for in the Mission Bay Specific Plan.

(b) The city notifies the State Lands Commission in writing of any such proposed adjustment, and the State Lands Commission either consents to the adjustment or does not, within 45 days from the notification, specify in writing to the parties to any agreement establishing or affecting the boundaries proposed to be adjusted the

basis for any objections to the proposed adjustment.

The State Lands Commission shall schedule a public hearing on any such objections within 60 days of the mailing of the written objection to the parties and shall expeditiously attempt to resolve those objections with the parties. Any lands which may be determined or agreed to be free of the public trust or the Burton Act trust by virtue of the adjustment shall thereupon be free of those trusts; and any lands which may be determined or agreed to be held subject to those trusts by virtue of the adjustment shall thereupon be held subject to those trusts in accordance with Section 8 of this act.

SEC. 10. Nothing in this act shall be construed to prohibit or limit amendment of the Mission Bay Specific Plan by the city subsequent to the effective date of this act, and no sale, exchange, agreement, quitclaim, or other conveyance authorized, ratified, confirmed, made, or entered into pursuant to this act shall be affected by any such amendment, provided that (1) the city determines that any such amendment does not result in any significant impairment of the public trust uses provided for in the Mission Bay Specific Plan, and (2) the city notifies the State Lands Commission in writing of any such proposed amendment, and the State Lands Commission either consents to the amendment, or does not within 45 days from that notification specify in writing to the city the basis for any objections to the proposed amendment. The State Lands Commission shall schedule a public hearing on any objections within 60 days of the mailing of the written objections to the city and shall expeditiously attempt to resolve those objections with the city.

SEC. 11. Sales, conveyances, or exchanges made by the city pursuant to this act are hereby found to be of statewide significance and importance and, therefore, any ordinance, charter provision, or other provision of local law inconsistent with this act shall not be applicable to the sales, conveyances, or exchanges.

SEC. 12. Any agreement for the exchange or sale of, or trust termination over, granted tidelands pursuant to Section 4 or 5, or any agreement for a boundary line adjustment pursuant to Section 9, shall be conclusively presumed to be valid unless held to be invalid in an appropriate proceeding in a court of competent jurisdiction to determine the validity of the agreement commenced within 60 days after the recording of the agreement.

SEC. 13. The State Lands Commission and the city are authorized to modify any description and plat prepared and recorded pursuant to Chapter 1333 of the Statutes of 1968, as amended, and Section II of that certain agreement relating to transfer of the port of San Francisco from the State of California to the city and dated January 24, 1969, and to record the modified plat and description in the office of the recorder of the city.

SEC. 14. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Certain of the granted tidelands are proposed to be more fully used by the city as a part of a development project that will maximize benefit to the trust purposes in furtherance of which the granted tidelands are held. The project will substantially and immediately further those trust purposes to an extent that would not be possible in the absence of the project. An immediate clarification of the availability of granted tidelands is necessary in order to avoid prolonged delays in realizing the fullest use of those lands for the maximum benefit of the statutory trust purposes. It is necessary, therefore, that this act take effect immediately.

CHAPTER 1144

An act to amend Sections 3920, 4001, 4005, 4006, and 4010 of, and to add Sections 3921 and 4022 to, the Public Utilities Code, and to add 34505.7 to the Vehicle Code, relating to vehicles, and making an appropriation therefor.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 3920 of the Public Utilities Code is amended to read:

3920. Registration shall not be granted to any carrier exempt from regulation by the Interstate Commerce Commission until there is filed with and accepted by the commission, in the form that it prescribes, a currently effective certificate of insurance or a surety bond evidencing bodily injury, property damage, and cargo liability coverage not less than the minimum prescribed for owners and operators of for-hire vehicles regulated by the commission, or evidence of the qualification of the carrier as a self-insurer as may be authorized by the commission under any applicable general orders of the commission.

SEC. 1.5. Section 3921 is added to the Public Utilities Code, to read:

3921. (a) Whenever the commission determines that the certificate of insurance or surety bond of a carrier or evidence of the carrier's qualification as a self-insurer has lapsed or been terminated, the commission shall suspend, cancel, or revoke the carrier's registration.

(b) The commission shall notify the carrier of any action taken under subdivision (a).

SEC. 2. Section 4001 of the Public Utilities Code is amended to read:

4001. (a) For purposes of this chapter, "private carrier" means a not-for-hire motor carrier, as defined in Section 408 of the Vehicle

Code, who is required to display a carrier identification number pursuant to Section 34507.5 of the Vehicle Code, but does not include persons providing transportation services specified in subdivision (k) or (*l*) of Section 5353.

(b) For purposes of this chapter, "department" means the Department of the California Highway Patrol.

SEC. 3. Section 4005 of the Public Utilities Code is amended to read:

4005. Except as provided in Section 4008, no private carrier shall operate a motor vehicle on any public highway in this state unless its operation is currently registered with the commission. The commission shall grant registration upon the filing of the application and the payment of the fee as required by this article, subject to the private carrier's compliance with this chapter.

SEC. 3.5. Section 4006 of the Public Utilities Code is amended to read:

4006. (a) A fee of twenty-five dollars ($25) shall be paid to the commission for the filing of the initial registration, and an annual renewal fee of twenty dollars ($20) shall also be paid. The fees required to be paid by carriers of property pursuant to this section shall be deposited in the Transportation Rate Fund. The fees required to be paid by carriers of passengers pursuant to this section shall be deposited in the Public Utilities Commission Transportation Reimbursement Account in the General Fund.

(b) Notwithstanding subdivision (a), the commission may increase the amount of the initial registration fee to not more than thirty-five dollars ($35) and the amount of the annual renewal fee to not more than thirty dollars ($30) if the commission finds and determines that to do so is necessary to defray the costs of implementing Section 4022. If the commission increases either fee pursuant to this subdivision, it shall prepare and transmit to the Joint Legislative Budget Committee, the Assembly Committee on Utilities and Commerce, and the Senate Committee on Energy and Public Utilities a report of the amount of the increase instituted together with an audited statement of the receipts and disbursements related to the administration of private carrier registrations.

SEC. 4. Section 4010 of the Public Utilities Code is amended to read:

4010. (a) Registration shall not be granted to any private carrier until there is filed with and accepted by the commission, in the form that it prescribes, a currently effective certificate of insurance or a surety bond evidencing protection against liability imposed by law for the payment of damages for personal injury to, or death of, any person or property damage, or both.

(b) Whenever the commission determines that the certificate of insurance or surety bond of a private carrier has lapsed or been terminated, the commission shall suspend the private carrier's registration.

(c) The commission shall notify the private carrier of any action

taken under subdivision (b).

SEC. 5. Section 4022 is added to the Public Utilities Code, to read:

4022. (a) Upon receipt of a written recommendation from the department that the registration of a private carrier be suspended for failure to either (1) maintain any vehicle of the carrier in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety, if that failure is either a consistent failure or presents an imminent danger to public safety, or (2) enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code, the commission shall, pending a hearing in the matter pursuant to subdivision (d), suspend the carrier's registration. The department's written recommendation shall specifically indicate compliance with subdivision (c).

(b) A private carrier whose registration is suspended pursuant to subdivision (a) may obtain a reinspection of its terminal and vehicles by the department by submitting a written request for reinstatement to the commission and paying a reinstatement fee of one hundred twenty-five dollars ($125). The commission shall deposit all reinstatement fees collected from carriers of property pursuant to this section in the Transportation Rate Fund. The fees required to be paid by carriers of passengers pursuant to this section shall be deposited in the Public Utilities Commission Transportation Reimbursement Account in the General Fund. Upon payment of the fee, the commission shall forward a request for reinspection to the department which shall perform a reinspection within a reasonable time. The commission shall reinstate a carrier's registration suspended under subdivision (a) promptly upon receipt of a written recommendation from the department that the carrier's safety compliance has improved to the satisfaction of the department, unless the registration is suspended for another reason or has been revoked.

(c) Before transmitting a recommendation pursuant to subdivision (a) to the commission, the department shall notify the private carrier in writing of all of the following:

(1) That the department has determined that the carrier's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in a suspension or revocation of the carrier's registration by the commission.

(3) That the carrier may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. If a review pursuant to this paragraph is requested by the carrier, the department shall conduct and evaluate that review prior to transmitting any notification to the commission pursuant to subdivision (a).

(d) Whenever the commission suspends the registration of any private carrier pursuant to subdivision (a), the commission shall furnish the carrier written notice of the suspension and shall hold a

hearing within a reasonable time, not to exceed 21 days, after a written request therefor is filed with the commission, with a copy thereof furnished to the department. At the hearing, the carrier shall show cause why the suspension should not be continued. At the conclusion of the hearing, the commission may terminate the suspension, continue the suspension in effect, or revoke the registration. The commission may revoke the registration of any carrier suspended pursuant to subdivision (a) at any time 90 days or more after its suspension if the commission has not received a written recommendation for reinstatement from the department and the carrier has not filed a written request for a hearing with the commission.

SEC. 6. Section 34505.7 is added to the Vehicle Code, to read:

34505.7. (a) Upon determining that a private carrier, as defined in Section 4001 of the Public Utilities Code, has either (1) failed to maintain any vehicle of the carrier in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety, and, in the department's opinion, the failure presents an imminent danger to public safety or constitutes such a consistent failure as to justify a recommendation to the Public Utilities Commission, or (2) failed to enroll all drivers in the pull notice system as required by Section 1808.1, the department shall make a written recommendation to the Public Utilities Commission that the carrier's registration be suspended. Two consecutive unsatisfactory terminal ratings assigned for failure to comply with the periodic report requirements in Section 1808.1, or cancellation of an employer's enrollment by the Department of Motor Vehicles for nonpayment of fees, constitutes a consistent failure. The department shall retain a record, by operator, of every recommendation made pursuant to this section.

(b) Before transmitting a recommendation pursuant to subdivision (a), the department shall give written notice to the carrier of all of the following:

(1) That the department has determined that the carrier's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in a suspension or revocation of the carrier's registration by the California Public Utilities Commission.

(3) That the carrier may request a review of the determination by the department within five days of its receipt of the notice required by this subdivision. If a review pursuant to this paragraph is requested by the carrier, the department shall conduct and evaluate that review prior to transmitting any notification pursuant to subdivision (a).

CHAPTER 1145

An act to amend Section 1785.13 of the Civil Code, relating to credit reporting agencies.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 1785.13 of the Civil Code is amended to read:

1785.13. (a) Except as authorized under subdivision (b), no consumer credit reporting agency shall make any consumer credit report containing any of the following items of information:

(1) Bankruptcies which, from the date of adjudication, antedate the report by more than 10 years. Any information in a consumer credit report regarding a bankruptcy shall designate the chapter of the federal bankruptcy law (Title 11, U.S.C.) pursuant to which the bankruptcy proceeding was filed.

(2) Suits and judgments which, from the date of entry, antedate the report by more than seven years or until the governing statute of limitations has expired, whichever is the longer period.

(3) Unlawful detainer actions where the person against whom the action was filed was adjudged the prevailing party.

(4) Paid tax liens which, from the date of payment, antedate the report by more than seven years.

(5) Accounts placed for collection or charged to profit and loss which antedate the report by more than seven years.

(6) Records of arrest, indictment, information, misdemeanor complaint, or conviction of a crime which, from the date of disposition, release, or parole, antedate the report by more than seven years. These items of information shall no longer be reported if at any time it is learned that in the case of a conviction a full pardon has been granted, or in the case of an arrest, indictment, information, or misdemeanor complaint a conviction did not result.

(7) Any other adverse information which antedates the report by more than seven years.

(b) Subdivision (a) is not applicable in the case of any consumer credit report to be used in the following transactions:

(1) A credit transaction involving, or which may reasonably be expected to involve, a principal amount of fifty thousand dollars ($50,000) or more.

(2) The underwriting of life insurance, involving or which may reasonably be expected to involve, an amount of one hundred thousand dollars ($100,000) or more.

(3) The employment of any individual at an annual salary which equals, or may reasonably be expected to equal, thirty thousand dollars ($30,000) or more.

(4) The rental of a dwelling unit which exceeds one thousand dollars ($1,000) per month.

SEC. 1.1. Section 1785.13 of the Civil Code is amended to read:

1785.13. (a) Except as authorized under subdivision (b) no consumer credit reporting agency shall make any consumer credit report containing any of the following items of information:

(1) Bankruptcies which, from the date of adjudication, antedate the report by more than 10 years. Any information in a consumer credit report regarding a bankruptcy shall designate the chapter of the federal bankruptcy law (Title 11, U.S.C.) pursuant to which the bankruptcy proceeding was filed.

(2) Suits and judgments which, from the date of entry, antedate the report by more than seven years or until the governing statute of limitations has expired, whichever is the longer period.

(3) Unlawful detainer actions, unless the lessor was the prevailing party. For purposes of this paragraph, the lessor shall be deemed to be the prevailing party only if (A) final judgment was awarded to the lessor (i) upon entry of the tenant's default, (ii) upon the granting of the lessor's motion for summary judgment, or (iii) following trial, or (B) the action was resolved by a written settlement agreement between the parties which states that the unlawful detainer action may be reported. In any other instance in which the action is resolved by settlement agreement, the lessor shall not be deemed to be the prevailing party for purposes of this paragraph.

(4) Paid tax liens which, from the date of payment, antedate the report by more than seven years.

(5) Accounts placed for collection or charged to profit and loss which antedate the report by more than seven years.

(6) Records of arrest, indictment, information, misdemeanor complaint, or conviction of a crime which, from the date of disposition, release, or parole, antedate the report by more than seven years. These items of information shall no longer be reported if at any time it is learned that in the case of a conviction a full pardon has been granted, or in the case of an arrest, indictment, information, or misdemeanor complaint a conviction did not result.

(7) Any other adverse information which antedates the report by more than seven years.

(b) Subdivision (a) is not applicable in the case of any consumer credit report to be used in the following transactions:

(1) A credit transaction involving, or which may reasonably be expected to involve, a principal amount of fifty thousand dollars ($50,000) or more.

(2) The underwriting of life insurance, involving or which may reasonably be expected to involve, an amount of one hundred thousand dollars ($100,000) or more.

(3) The employment of any individual at an annual salary which equals, or may reasonably be expected to equal, thirty thousand dollars ($30,000) or more.

(4) The rental of a dwelling unit which exceeds one thousand

dollars ($1,000) per month.

SEC. 1.2. Section 1785.13 of the Civil Code is amended to read:

1785.13. (a) Except as authorized under subdivision (b) no consumer credit reporting agency shall make any consumer credit report containing any of the following items of information:

(1) Bankruptcies which, from the date of adjudication, antedate the report by more than 10 years. Any information in a consumer credit report regarding a bankruptcy shall designate the chapter of the federal bankruptcy law (Title 11, U.S.C.) pursuant to which the bankruptcy proceeding was filed.

(2) Suits and judgments which, from the date of entry, antedate the report by more than seven years or until the governing statute of limitations has expired, whichever is the longer period.

(3) Unlawful detainer actions where the person against whom the action was filed was adjudged the prevailing party.

(4) Paid tax liens which, from the date of payment, antedate the report by more than seven years.

(5) Accounts placed for collection or charged to profit and loss which antedate the report by more than seven years.

(6) Records of arrest, indictment, information, misdemeanor complaint, or conviction of a crime which, from the date of disposition, release, or parole, antedate the report by more than seven years. These items of information shall no longer be reported if at any time it is learned that in the case of a conviction a full pardon has been granted, or in the case of an arrest, indictment, information, or misdemeanor complaint a conviction did not result.

(7) Any other adverse information which antedates the report by more than seven years.

(b) Subdivision (a) is not applicable in the case of any consumer credit report to be used in the following transactions:

(1) A credit transaction involving, or which may reasonably be expected to involve, a principal amount of fifty thousand dollars ($50,000) or more.

(2) The underwriting of life insurance, involving or which may reasonably be expected to involve, an amount of one hundred thousand dollars ($100,000) or more.

(3) The rental of a dwelling unit which exceeds one thousand dollars ($1,000) per month.

(c) No consumer credit reporting agency shall make any consumer credit report to be used for employment purposes except as specified in Section 1785.11.

(d) This section shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1994, deletes or extends that date.

SEC. 1.3. Section 1785.13 is added to the Civil Code, to read:

1785.13. (a) Except as authorized under subdivision (b), no consumer credit reporting agency shall make any consumer credit report containing any of the following items of information:

(1) Bankruptcies which, from the date of adjudication, antedate

the report by more than 10 years. Any information in a consumer credit report regarding a bankruptcy shall designate the chapter of the federal bankruptcy law (Title 11, U.S.C.) pursuant to which the bankruptcy proceeding was filed.

(2) Suits and judgments which, from the date of entry, antedate the report by more than seven years or until the governing statute of limitations has expired, whichever is the longer period.

(3) Unlawful detainer actions where the person against whom the action was filed was adjudged the prevailing party.

(4) Paid tax liens which, from the date of payment, antedate the report by more than seven years.

(5) Accounts placed for collection or charged to profit and loss which antedate the report by more than seven years.

(6) Records of arrest, indictment, information, misdemeanor complaint, or conviction of a crime which, from the date of disposition, release, or parole, antedate the report by more than seven years. These items of information shall no longer be reported if at any time it is learned that in the case of a conviction a full pardon has been granted, or in the case of an arrest, indictment, information, or misdemeanor complaint a conviction did not result.

(7) Any other adverse information which antedates the report by more than seven years.

(b) Subdivision (a) is not applicable in the case of any consumer credit report to be used in the following transactions:

(1) A credit transaction involving, or which may reasonably be expected to involve, a principal amount of fifty thousand dollars ($50,000) or more.

(2) The underwriting of life insurance, involving or which may reasonably be expected to involve, an amount of one hundred thousand dollars ($100,000) or more.

(3) The employment of any individual at an annual salary which equals, or may reasonably be expected to equal, thirty thousand dollars ($30,000) or more.

(4) The rental of a dwelling unit which exceeds one thousand dollars ($1,000) per month.

(c) This section shall become operative on January 1, 1994.

SEC. 1.4. Section 1785.13 of the Civil Code is amended to read:

1785.13. (a) Except as authorized under subdivision (b) no consumer credit reporting agency shall make any consumer credit report containing any of the following items of information:

(1) Bankruptcies which, from the date of adjudication, antedate the report by more than 10 years. Any information in a consumer credit report regarding a bankruptcy shall designate the chapter of the federal bankruptcy law (Title 11, U.S.C.) pursuant to which the bankruptcy proceeding was filed.

(2) Suits and judgments which, from the date of entry, antedate the report by more than seven years or until the governing statute of limitations has expired, whichever is the longer period.

(3) Unlawful detainer actions, unless the lessor was the prevailing

party. For purposes of this paragraph, the lessor shall be deemed to be the prevailing party only if (A) final judgment was awarded to the lessor (i) upon entry of the tenant's default, (ii) upon the granting of the lessor's motion for summary judgment, or (iii) following trial, or (B) the action was resolved by a written settlement agreement between the parties which states that the unlawful detainer action may be reported. In any other instance in which the action is resolved by settlement agreement, the lessor shall not be deemed to be the prevailing party for purposes of this paragraph.

(4) Paid tax liens which, from the date of payment, antedate the report by more than seven years.

(5) Accounts placed for collection or charged to profit and loss which antedate the report by more than seven years.

(6) Records of arrest, indictment, information, misdemeanor complaint, or conviction of a crime which, from the date of disposition, release, or parole, antedate the report by more than seven years. These items of information shall no longer be reported if at any time it is learned that in the case of a conviction a full pardon has been granted, or in the case of an arrest, indictment, information, or misdemeanor complaint a conviction did not result.

(7) Any other adverse information which antedates the report by more than seven years.

(b) Subdivision (a) is not applicable in the case of any consumer credit report to be used in the following transactions:

(1) A credit transaction involving, or which may reasonably be expected to involve, a principal amount of fifty thousand dollars ($50,000) or more.

(2) The underwriting of life insurance, involving or which may reasonably be expected to involve, an amount of one hundred thousand dollars ($100,000) or more.

(3) The rental of a dwelling unit which exceeds one thousand dollars ($1,000) per month.

(c) No consumer credit reporting agency shall make any consumer credit report to be used for employment purposes except as specified in Section 1785.11.

(d) This section shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1994, deletes or extends that date.

SEC. 1.5. Section 1785.13 is added to the Civil Code, to read:

1785.13. (a) Except as authorized under subdivision (b) no consumer credit reporting agency shall make any consumer credit report containing any of the following items of information:

(1) Bankruptcies which, from the date of adjudication, antedate the report by more than 10 years. Any information in a consumer credit report regarding a bankruptcy shall designate the chapter of the federal bankruptcy law (Title 11, U.S.C.) pursuant to which the bankruptcy proceeding was filed.

(2) Suits and judgments which, from the date of entry, antedate the report by more than seven years or until the governing statute

of limitations has expired, whichever is the longer period.

(3) Unlawful detainer actions, unless the lessor was the prevailing party. For purposes of this paragraph, the lessor shall be deemed to be the prevailing party only if (A) final judgment was awarded to the lessor (i) upon entry of the tenant's default, (ii) upon the granting of the lessor's motion for summary judgment, or (iii) following trial, or (B) the action was resolved by a written settlement agreement between the parties which states that the unlawful detainer action may be reported. In any other instance in which the action is resolved by settlement agreement, the lessor shall not be deemed to be the prevailing party for purposes of this paragraph.

(4) Paid tax liens which, from the date of payment, antedate the report by more than seven years.

(5) Accounts placed for collection or charged to profit and loss which antedate the report by more than seven years.

(6) Records of arrest, indictment, information, misdemeanor complaint, or conviction of a crime which, from the date of disposition, release, or parole, antedate the report by more than seven years. These items of information shall no longer be reported if at any time it is learned that in the case of a conviction a full pardon has been granted, or in the case of an arrest, indictment, information, or misdemeanor complaint a conviction did not result.

(7) Any other adverse information which antedates the report by more than seven years.

(b) Subdivision (a) is not applicable in the case of any consumer credit report to be used in the following transactions:

(1) A credit transaction involving, or which may reasonably be expected to involve, a principal amount of fifty thousand dollars ($50,000) or more.

(2) The underwriting of life insurance, involving or which may reasonably be expected to involve, an amount of one hundred thousand dollars ($100,000) or more.

(3) The employment of any individual at an annual salary which equals, or may reasonably be expected to equal, thirty thousand dollars ($30,000) or more.

(4) The rental of a dwelling unit which exceeds one thousand dollars ($1,000) per month.

(c) This section shall become operative on January 1, 1994.

SEC. 2. (a) Section 1.1 of this bill incorporates amendments to Section 1785.13 of the Civil Code proposed by both this bill and AB 1796. They shall only become operative if (1) both bills are enacted and become effective January 1, 1992, (2) each bill amends Section 1785.13 of the Civil Code, (3) SB 473 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1796, in which case Sections 1 and 1.2 to 1.5, inclusive, of this bill shall not become operative.

(b) Sections 1.2 and 1.3 of this bill incorporate amendments to Section 1785.13 of the Civil Code proposed by both this bill and SB 473. They shall only become operative if (1) both bills are enacted

and become effective January 1, 1992, (2) each bill amends Section 1785.13 of the Civil Code, (3) AB 1796 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 473, in which case Sections 1, 1.1, 1.4, and 1.5 of this bill shall not become operative.

(c) Sections 1.4 and 1.5 of this bill incorporate amendments to Section 1785.13 of the Civil Code proposed by this bill, AB 1796, and SB 473. They shall only become operative if (1) all three bills are enacted and become effective January 1, 1992, (2) each bill amends Section 1785.13 of the Civil Code, and (3) this bill is enacted after AB 1796 and SB 473, in which case Sections 1 to 1.3, inclusive, of this bill shall not become operative.

CHAPTER 1146

An act to add an article heading to Chapter 14 (commencing with Section 11300) of Part 7 of, and to add Article 2 (commencing with Section 11320) to Chapter 14 of Part 7 of, the Education Code, relating to education.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. An article heading is added immediately preceding Section 11300 of the Education Code, to read:

Article 1. Policy

SEC. 2. Article 2 (commencing with Section 11320) is added to Chapter 14 of Part 7 of the Education Code, to read:

Article 2. Pilot Projects

11320. The Legislature finds and declares as follows:

(a) The California Workforce Literacy Task Force recommended in 1990 that California's Legislature and Governor work together to promote awareness of the serious need facing the state for greater investments in the literacy skills development of our underserved youth and adult human resources.

(b) More than half of California's youth and adults are not seeking higher education. An estimated seven million of California's youth and adults, age 15 years and older, have educationally developed skills below the 9th grade level, and many are in need of English language training.

(c) State-provided literacy programs cannot meet the present demands for services, yet a majority of those who could benefit from

additional education are not being reached, and of those who are served, most drop out without increasing their skills to the 9th grade level.

(d) Most of the population in need of literacy and other cognitive skills development are not being reached and served by the current delivery system. A limitation on the funds available for this purpose has the effect of causing many individuals to be turned away from programs. Among the reasons given for nonparticipation are failure to recognize a skills problem, fear of admitting a literacy problem at work, or embarrassment. The demands of work and family may create barriers to participation. Negative attitudes about classroom learning, times, and locations for learning are often reported. The perceived lack of any rewards or benefits offers little incentive for many of the persons in need of improving their skills.

(e) Distance learning instructional technologies provide California with excellent opportunities to accomplish important long-range educational opportunities and objectives efficiently.

(f) Distance learning is changing educational boundaries that traditionally have been defined by location and institution. Using distance learning technology, classrooms may now extend to students in other schools, in other cities, in other states, and in other nations. A high school course in advanced mathematics may be taught by a university professor in a live, interactive situation linking high school pupils in inner-city areas of Los Angeles, Boston, Detroit, and rural areas of California.

(g) California is far behind other states in statewide planning and policy development for distance learning. As a result, the benefits of distance learning are not being shared equitably across the state, the resources are not being used as efficiently as they might be, the potential of distance learning technologies to meet broader school and college reform goals is not being maximized, and outmoded statutes and policies block the full utilization of the new technologies.

(h) The federal Office of Technology Assessment concluded in a 1989 report that the recent expansion of distance learning has provided a unique opportunity for collaboration and resource sharing by educators from various institutional, instructional, and geographic locations. Joint activities by representatives from public schools, higher education, and the private sector have multiplied significantly during the past five years, seeking to use distance learning as a means to respond to the need for improved educational services. Distance learning technology has been successfully used in many states to provide educational services for the geographically isolated schools and for underserved or advanced students. States are now using distance learning as a means of solving other educational deficiencies, including inadequacies in faculty and staff development, parental involvement, and cultural relations.

(i) The changing composition of California society has resulted in an increase in the adult population demand for English language and basic skills instruction that school districts and community college

districts have been unable to meet due to budget constraints. In response to this situation, it is the intent of the Legislature to expand the utilization of distance learning technology in the provision of English language and basic skills instruction to adults in all regions of the state.

11320.1. Distance Learning Pilot Projects for English as a Second Language and Adult Workforce Skills shall be established, utilizing distance learning technologies to provide both English language instruction and work force skills for adults with limited English proficiency.

11320.2. The California Postsecondary Education Commission, in consultation with parties having an interest in distance learning activities, shall do all of the following:

(a) Establish and implement a request for proposals for the establishment of two or more Distance Learning Pilot Projects for English as a Second Language and Adult Workforce Skills. These projects shall operate as cost-effective models providing training services to adults. Each project shall be operated for a five-year period. The projects for adult work force skills shall provide services at the adult's worksite, and each project shall function as a consortium involving representatives from business and industry, labor, and educational institutions.

(b) Process, solicit, and review proposals for the pilot projects.

(c) Establish guidelines for the operation of the pilot projects.

(d) Award grants for the operation of the pilot projects.

(e) Establish evaluation criteria to assess the effectiveness of the pilot projects.

11320.3. Utilizing the criteria established pursuant to subdivision (e) of Section 11320.2, the commission shall complete an evaluation of the pilot projects within five years of the initial funding date for the operation of the pilot projects. The commission's evaluation shall include, but not be limited to, the following:

(a) The extent to which pupil achievement levels in English language skills have improved, compared with pupils receiving comparable English as a second language instruction in the traditional classroom setting.

(b) The cost savings, if any, associated with the use of distance learning technology.

(c) Barriers associated with the use of distance learning technology, and the identification of strategies to overcome these barriers.

11320.5. For the purposes of this article, "distance learning" means instruction in which the student and instructor are separated by distance and interact through the assistance of computer and communications technology. Distance learning also may include video or audio instruction in which the primary mode of communication between student and instructor is through a communications medium, including, but not limited to, instructional television, video, or telecourses, and any other instruction that relies

on computer or communications technology to reach students at distant locations.

11320.6. Funding to establish and maintain the distance learning pilot projects for English as a Second Language and Adult Workforce Skills shall be obtained only from grants from federal agencies or private foundations, or both.

CHAPTER 1147

An act to amend Sections 22003, 22005, 22008.5, and 22009 of the Welfare and Institutions Code, relating to long-term care.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 22003 of the Welfare and Institutions Code is amended to read:

22003. (a) Individuals who participate in the pilot program and have resources above the eligibility levels for receipt of medical assistance under Title XIX of the Social Security Act (Subchapter XIX (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code) shall be eligible to receive those in-home supportive services benefits specified by the State Department of Social Services, and those Medi-Cal benefits specified by the State Department of Health Services, for which they would otherwise be eligible, if, prior to becoming eligible for benefits, they have purchased a long-term care insurance policy or a health care service plan contract covering long-term care that has been certified by the State Department of Health Services pursuant to Section 22005.

(b) Individuals may purchase certified long-term care insurance policies or health care service plan contracts which cover long-term care services in amounts equal to the resources they wish to protect, so long as the amount of insurance purchased exceeds the minimum level set by the program.

(c) The resource protection provided by this division shall be effective only for long-term care policies, and health care service plan contracts that cover long-term care services, when the policy or contract is delivered, issued for delivery, or renewed during an enrollment period of January 1, 1992, to December 31, 1996, inclusive, or before the termination of the pilot program, whichever is sooner.

SEC. 2. Section 22005 of the Welfare and Institutions Code is amended to read:

22005. The department shall only certify long-term care insurance policies and health care service plan contracts which cover long-term care that provide all of the following:

(a) Individual case management by a coordinating entity

designated or approved by the department.

(b) The levels and durations of benefits which meet minimum standards set by the department.

(c) Protection against loss of benefits due to inflation.

(d) A recordkeeping system including an explanation of benefit report on insurance payments or benefits which count toward Medi-Cal resource exclusion.

(e) Approval of the insurance policy by the Department of Insurance as meeting the requirements of Chapter 2.6 (commencing with Section 10230) of Part 2 of Division 2 of the Insurance Code, and meeting the standards set forth in the most current version of the Long-Term Care Insurance Model Act and the Long-Term Care Insurance Model Regulations of the National Association of Insurance Commissioners as of the date of certification; or approval of the health care service plan contract by the Department of Corporations pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code as providing substantially equivalent coverage to that required by Chapter 2.6 (commencing with Section 10230) of Part 2 of Division 2 of the Insurance Code.

(f) Compliance with any other requirements imposed by the department through regulations consistent with the purposes of this division.

SEC. 3. Section 22008.5 of the Welfare and Institutions Code is amended to read:

22008.5. Individuals who participate in the pilot program shall remain eligible for those in-home supportive services benefits and those Medi-Cal benefits for which they are eligible under the pilot program for the life of the purchaser of the policy or contract, as long as the purchaser maintains his or her insurance policy or health care service plan contract in force, or otherwise qualifies for continued benefits in accordance with regulations promulgated by the departments.

SEC. 4. Section 22009 of the Welfare and Institutions Code is amended to read:

22009. (a) The State Department of Health Services shall adopt regulations to implement this division, including, but not limited to, regulations which establish:

(1) The population and age groups that are eligible to participate in the pilot program.

(2) The minimum level of long-term care insurance or long-term care coverage included in health care service plan contracts that must be purchased to meet the requirement of subdivision (b) of Section 22003.

(3) The amount and types of services that a long-term care insurance policy or health care service plan contract which includes long-term care services must cover to meet the requirements of Section 22005.

(4) Which coordinating entities are designated or approved to

deliver individual assessment and case management services to individuals in a community setting as required by subdivision (b) of Section 22006.

(5) The disability criteria for eligibility for long-term care benefits as required by subdivision (c) of Section 22006.

(6) The specific eligibility requirements for receipt of the Medi-Cal benefits provided for by the pilot program, and those Medi-Cal benefits for which participants in the pilot program shall be eligible.

(b) The State Department of Social Services shall also adopt regulations to implement this division, including, but not limited to, regulations which establish:

(1) The specific eligibility requirements for in-home supportive services benefits.

(2) Those in-home supportive services benefits for which participants in the pilot program shall be eligible.

(c) The State Department of Health Services and the State Department of Social Services shall also jointly adopt regulations which provide for the following:

(1) Continuation of benefits beyond the termination of the pilot program pursuant to Section 22008.5.

(2) The protection of a participant's resources pursuant to Section 22004, and the ratio of resources to long-term care benefit payments as described in subdivision (c) of Section 22004.

(d) The departments shall adopt emergency regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code to implement this division. The adoption of regulations pursuant to this section in order to implement this division shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, or safety.

Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted pursuant to this section shall not be subject to the review and approval of the Office of Administrative Law. The regulations shall become effective immediately upon filing with the Secretary of State. The regulations shall not remain in effect more than 120 days unless the adopting agency complies with all of the provisions of Chapter 3.5 (commencing with Section 11340) as required by subdivision (c) of Section 11346.1 of the Government Code.

CHAPTER 1148

An act to amend Sections 469 and 470 of the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 469 of the Revenue and Taxation Code is amended to read:

469. In any case in which locally assessable trade fixtures and business tangible personal property owned, claimed, possessed, or controlled by a taxpayer engaged in a profession, trade, or business has a full value of three hundred thousand dollars ($300,000) or more, the assessor shall audit the books and records of that profession, trade, or business at least once each four years. If the board determines the value of property pursuant to Section 15640 of the Government Code, that determination may be deemed an audit by the assessor for purposes of this section.

Equalization of the property by a county board of equalization or assessment appeals board pursuant to Chapter 1 (commencing with Section 1601) of Part 3 of this division shall not preclude a subsequent audit and shall not preclude the assessor from levying an escape assessment in appropriate instances, but shall preclude an escape assessment being levied on that portion of the assessment that was the subject of the equalization hearing.

If the result of an audit for any year discloses property subject to an escape assessment, then the original assessment of all property of the assessee at the location of the profession, trade, or business for that year shall be subject to review, equalization and adjustment by the county board of equalization or assessment appeals board pursuant to Chapter 1 (commencing with Section 1601) of Part 3 of this division, except in those instances when the property had previously been equalized for the year in question.

If the audit for any particular tax year discloses that the property of the taxpayer was incorrectly valued or misclassified for any cause, to the extent that this error caused the property to be assessed at a higher value than the assessor would have entered on the roll had the incorrect valuation or misclassification not occurred, then the assessor shall notify the taxpayer of the amount of the excess valuation or misclassification, and the fact that a claim for cancellation or refund may be filed with the county as provided by Sections 4986 and 5096.

SEC. 2. Section 470 of the Revenue and Taxation Code is amended to read:

470. (a) Upon request of an assessor, a person owning, claiming,

possessing, or controlling property subject to local assessment shall make available at his or her principal place of business, principal location or principal address in California or at a place mutually agreeable to the assessor and the person, a true copy of business records relevant to the amount, cost, and value of all property that he or she owns, claims, possesses, or controls within the county.

(b) In the case of a taxpayer that has its principal place of business outside of California and has been requested to make business records available pursuant to subdivision (a), that taxpayer may, as an alternative to making the requested business records available pursuant to the terms of that subdivision, pay the county the amount of reasonable and ordinary expenses for food, lodging, transportation, and other related items incurred by the assessor's representative, in traveling to the place outside California where the requested business records are available for examination and performing his or her official duties with respect to the examination of those records.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to allow the changes made by this act to operate as soon as possible so as to facilitate the proper and efficient administration of property taxes and to produce the full and fair measure of property tax revenues, it is necessary that this act take effect immediately.

CHAPTER 1149

An act to amend Sections 22825.2 and 22825.3 of, and to add Article 8.6 (commencing with Section 31694) to Chapter 3 of Part 3 of Division 4 of Title 3 of, the Government Code, and to amend Section 4142 of the Public Resources Code, relating to public employees, and making an appropriation therefor.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 22825.2 of the Government Code is amended to read:

22825.2. (a) Notwithstanding Sections 22825 and 22825.1, state employees first hired on or after January 1, 1985, shall not be vested for the full employer contribution payable for annuitants unless those employees have 10 years of credited state service at time of service retirement.

(b) For the purpose of meeting the vesting requirements of subdivision (a), employees of the County of Merced who became employees of the state as a result of the state's assuming firefighting functions for that county shall be credited with each complete year of service with the county which would have been credited to them by the county for the vesting of postretirement health benefits, as if that service had been with the state. Subdivision (f) of Section 22825.3 does not apply to employees of the County of Merced who became employees of the state as a result of the state assuming firefighter functions for the county on or before August 1, 1988.

(c) This section does not apply to employees of the California State University or of the Legislature.

SEC. 2. Section 22825.3 of the Government Code is amended to read:

22825.3. (a) Notwithstanding Sections 22825, 22825.1, and 22825.2, state employees who become state members of the Public Employees' Retirement System after January 1, 1989, and who are members in state bargaining units for which a memorandum of understanding to become subject to this section has been agreed to by the state employer and the recognized employee organization shall not receive any portion of the employer's contribution payable for annuitants, pursuant to Section 22825.1, unless these employees are credited with 10 years of state service as defined by this section, at the time of retirement.

(b) Notwithstanding Sections 22825, 22825.1, and 22825.2, a state employee who became a state member of the Public Employees' Retirement System after January 1, 1990, and is either (1) excepted from the definition of state employee in subdivision (c) of Section 3513; or (2) a supervisory employee as defined in Section 3522.1; or (3) employed by the executive branch of government who is not a member of the state civil service, shall not receive any portion of the employer's contribution payable for annuitants, pursuant to Section 22825.1, unless the employee is credited with 10 years of state service as defined by this section, at the time of retirement.

(c) The percentage of employer contribution payable for postretirement health benefits for an employee subject to this section shall be based on the member's completed years of credited state service at retirement as shown in the following table:

Credited Years of Service	Percentage of Employer Contribution
10	50
11	55
12	60
13	65
14	70
15	75
16	80
17	85
18	90
19	95
20 or more	100

(d) This section shall apply only to state employees who retire for service.

(e) Benefits provided to an employee subject to this section shall be applicable to all future state service.

(f) For the purposes of this section, "state service" shall mean service rendered as an employee or an appointed or elected officer of the state for compensation. In those cases where the state assumes or has assumed from a local public agency a function and the related personnel, service rendered by that personnel for compensation as employees or appointed or elected officers of that local public agency shall not be credited, at retirement, as state service for the purposes of this section, unless the former employer has paid or agreed to pay the state agency the amount actuarially determined to equal the cost for any employee health benefits which were vested at the time that the function and the related personnel were assumed by the state. For noncontracting local public agencies the state department shall certify the completed years of local agency service to be credited to the employee to the Public Employees' Retirement System at the time of separation for retirement.

(g) Whenever the state contracts to assume a local public agency function, completed years of service rendered by the personnel for compensation as employees or appointed or elected officers of that local public agency shall be credited as state service only upon a finding by the Department of Finance that the contract contains a benefit factor sufficient to reimburse the state for the amount necessary to fully compensate the state for postretirement health benefit costs for those personnel.

(h) This section shall not apply to employees of the California State University or the Legislature.

SEC. 3. Article 8.6 (commencing with Section 31694) is added to Chapter 3 of Part 3 of Division 4 of Title 3 of the Government Code, to read:

Article 8.6. Alternative Group Insurance

31694. This article shall not become operative in any county unless and until it is adopted by resolution of the county board of supervisors. By adoption of this article, the board of supervisors declares their intention to make group health insurance benefits available to retirees, future retirees, and their survivors and dependents.

31694.1. The board of retirement may provide, on behalf of a member who has retired or an eligible surviving spouse or, if there is no such spouse, the surviving unmarried children of the member who are under 18 years of age or under 22 years of age and full-time students, for payments toward all, or a portion of, the payment for the consideration for any hospital service or medical service corporation, including any corporation lawfully operating under Section 10810 of the Corporations Code, contract, or for any combination thereof, for the benefits.

31694.2. The plan's actuary shall determine the amount required to fund a health insurance plan for retirees and shall recommend an amount necessary to establish a health insurance trust fund. The board shall establish a health insurance trust fund with funds that are contributed to provide group retirement health benefits. Future funding shall be in amounts recommended by the actuary.

31694.3. The board of retirement may pay for all or part of the amounts necessary to provide the group health insurance plan or plans offered to the retirees and their survivors and dependents. The amounts paid shall be in accordance with a resolution adopted by the county board of supervisors setting forth the schedule of amounts and eligibility.

31494.4. Any county electing to provide group health insurance benefits to retirees under this article shall do so in compliance with applicable federal tax laws.

SEC. 4. Section 4142 of the Public Resources Code is amended to read:

4142. (a) The department may, with the approval of the Department of General Services, enter into a cooperative agreement upon the terms and under the conditions as it deems wise, for the purpose of preventing and suppressing forest fires or other fires in any lands within any county, city, or district which makes an appropriation for that purpose.

(b) When the state assumes personnel from a county, city, or district, an actuarially determined benefit factor shall be included as a cost in the cooperative agreement, including renewals of the agreement, for any county, city, or district which elects to allow the completed years an employee worked at that county, city, or district, or a lesser number of completed years specified by the local agency, to be credited towards the vesting period for state postretirement health benefits. The department shall certify the completed years of county, city, or district service to be credited to an employee to the

Board of Administration Public Employees' Retirement System at the time of separation for retirement. The actuarially determined benefit factor shall be accepted as sufficient by the Department of Forestry and Fire Protection, upon review by the Department of Finance, to fully compensate the state for the postretirement health benefit costs of those employees. The postretirement health benefit costs charged under this subdivision may be paid in periodic installments at the discretion of the department. If the costs are paid in installments, the payment of the postretirement health benefit costs for years credited for nonstate service shall be a continuing obligation of any county, city, or district which made that election, regardless of whether or not the cooperative agreement continues or is renewed, and regardless of whether or not the employees continue in state service.

SEC. 5. It is the intent of the Legislature in enacting Sections 1 and 2 of this act to include service credit for employees who transferred into state service since January 1, 1985, and have subsequently retired. Sections 1 and 2 of this act are not intended to provide dual annuitant health benefit coverage for employees blanketed into state service.

SEC. 6. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1150

An act to amend Section 17510.3 of the Business and Professions Code, and to amend Section 12599 of the Government Code, relating to charitable organizations.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 17510.3 of the Business and Professions Code is amended to read:

17510.3. (a) Prior to any solicitation or sales solicitation for charitable purposes, the solicitor or seller shall exhibit to the

prospective donor or purchaser a card entitled "Solicitation or Sale for Charitable Purposes Card." The card shall be signed and dated under penalty of perjury by an individual who is a principal, staff member, or officer of the soliciting organization. The card shall give the name and address of the soliciting organization or the person who signed the card and the name and business address of the paid individual who is doing the actual soliciting.

In lieu of exhibiting a card, the solicitor or seller may distribute during the course of the solicitation any printed material, such as a solicitation brochure, provided the material complies with the standards set forth below, and provided that the solicitor or seller informs the prospective donor or purchaser that the information as required below is contained in the printed material.

Information on the card or printed material shall be presented in at least 10-point type and shall include the following:

(1) The name and address of the combined campaign, each organization, or fund on behalf of which all or any part of the money collected will be utilized for charitable purposes.

(2) If there is no organization or fund, the manner in which the money collected will be utilized for charitable purposes.

(3) The amount, stated as a percentage of the total gift or purchase price, that will be used for charitable purposes.

(4) If paid fundraisers are paid a set fee rather than a percentage of the total amount raised, the card shall show the total cost that is estimated will be used for direct fundraising expenses.

(5) If the solicitation is not a sale solicitation, the card may state, in place of the amount of fundraising expenses, that an audited financial statement of these expenses may be obtained by contacting the organization at the address disclosed.

(6) The non-tax-exempt status of the organization or fund, if the organization or fund for which the money or funds are being solicited does not have a charitable tax exemption under both federal and state law.

(7) The percentage of the total gift or purchase price which may be deducted as a charitable contribution under both federal and state law. If no portion is so deductible the card shall state that "This contribution is not tax deductible."

(8) If the organization making the solicitation represents any nongovernmental organization by any name which includes, but is not limited to, the term "officer," "peace officer," "police," "law enforcement," "reserve officer," "deputy," "California Highway Patrol," "Highway Patrol," or "deputy sheriff," which would reasonably be understood to imply that the organization is composed of law enforcement personnel, the solicitor shall give the total number of members in the organization and the number of members working or living within the county where the solicitation is being made, and if the solicitation is for advertising, the statewide circulation of the publication in which the solicited ad will appear.

(b) Knowing and willful noncompliance by any individual

volunteer who receives no compensation of any type from or in connection with a solicitation by any charitable organization shall subject the solicitor or seller to the penalties of the law.

(c) When the solicitation is not a sales solicitation, any individual volunteer who receives no compensation of any type from, or in connection with, a solicitation by any charitable organization may comply with the disclosure provisions by providing the name and address of the charitable organization on behalf of which all or any part of the money collected will be utilized for charitable purposes, by stating the charitable purposes for which the solicitation is made, and by stating to the person solicited that information about revenues and expenses of the organization, including its administration and fundraising costs, may be obtained by contacting the organization's office at the address disclosed. The organization shall provide this information to the person solicited within seven days after receipt of the request.

(d) A volunteer who receives no compensation of any type from, or in connection with, a solicitation or sales solicitation by a charitable organization which has qualified for a tax exemption under Section 501(c)(3) of the Internal Revenue Code of 1954, and who is 18 years of age or younger, is not required to make any disclosures pursuant to this section.

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

SEC. 1.5. Section 17510.3 of the Business and Professions Code is amended to read:

17510.3. (a) Prior to any solicitation or sales solicitation for charitable purposes, the solicitor or seller shall exhibit to the prospective donor or purchaser a card entitled "Solicitation or Sale for Charitable Purposes Card." The card shall be signed and dated under penalty of perjury by an individual who is a principal, staff member, or officer of the soliciting organization. The card shall give the name and address of the soliciting organization or the person who signed the card and the name and business address of the paid individual who is doing the actual soliciting.

In lieu of exhibiting a card, the solicitor or seller may distribute during the course of the solicitation any printed material, the as a solicitation brochure, provided such material complies with the standards set forth below, and provided that the solicitor or seller informs the prospective donor or purchaser that the information as required below is contained in the printed material.

Information on the card or printed material shall be presented in at least 10-point type and shall include the following:

(1) The name and address of the combined campaign, each organization, or fund on behalf of which all or any part of the money collected will be utilized for charitable purposes.

(2) If there is no organization or fund, the manner in which the money collected will be utilized for charitable purposes.

(3) The amount, stated as a percentage of the total gift or purchase price, that will be used for charitable purposes.

(4) If paid fundraisers are paid a set fee rather than a percentage of the total amount raised, the card shall show the total cost that is estimated will be used for direct fundraising expenses.

(5) If the solicitation is not a sale solicitation, the card may state, in place of the amount of fundraising expenses, that an audited financial statement of these expenses may be obtained by contacting the organization at the address disclosed.

(6) The non-tax-exempt status of the organization or fund, if the organization or fund for which the money or funds are being solicited does not have a charitable tax exemption under both federal and state law.

(7) The percentage of the total gift or purchase price which may be deducted as a charitable contribution under both federal and state law. If no portion is so deductible the card shall state that "This contribution is not tax deductible."

(8) If the organization making the solicitation represents any nongovernmental organization by any name which includes, but is not limited to, the term "officer," "peace officer," "police," "law enforcement," "reserve officer," "deputy," "California Highway Patrol," "Highway Patrol," or "deputy sheriff," which would reasonably be understood to imply that the organization is composed of law enforcement personnel, the solicitor shall give the total number of members in the organization and the number of members working or living within the county where the solicitation is being made, and if the solicitation is for advertising, the statewide circulation of the publication in which the solicited ad will appear.

(9) If the organization making the solicitation represents any nongovernmental organization by any name which includes, but is not limited to, the term "veteran" or "veterans," which would reasonably be understood to imply that the organization is composed of veterans, the solicitor shall give the total number of members in the organization and the number of members working or living within the county where the solicitation is being made. This paragraph does not apply to federally chartered or state incorporated veterans' organizations with 200 or more dues paying members or to a thrift store operated or controlled by a federally chartered or state incorporated veterans' organization. This paragraph does not apply to any state incorporated community-based organization that provides direct services to veterans and their families and qualifies as a tax-exempt organization under Section 501 (c) (3) or 501 (c) (19) of the Internal Revenue Code and Section 23701d of the Revenue and Taxation Code.

(b) Knowing and willful noncompliance by any individual volunteer who receives no compensation of any type from or in connection with a solicitation by any charitable organization shall

subject the solicitor or seller to the penalties of the law.

(c) When the solicitation is not a sales solicitation, any individual volunteer who receives no compensation of any type from, or in connection with, a solicitation by any charitable organization may comply with the disclosure provisions by providing the name and address of the charitable organization on behalf of which all or any part of the money collected will be utilized for charitable purposes, by stating the charitable purposes for which the solicitation is made, and by stating to the person solicited that information about revenues and expenses of the organization, including its administration and fundraising costs, may be obtained by contacting the organization's office at the address disclosed. The organization shall provide this information to the person solicited within seven days after receipt of the request.

(d) A volunteer who receives no compensation of any type from, or in connection with, a solicitation or sales solicitation by a charitable organization which has qualified for a tax exemption under Section 501(c)(3) of the Internal Revenue Code of 1954, and who is 18 years of age or younger, is not required to make any disclosures pursuant to this section.

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

SEC. 2. Section 12599 of the Government Code is amended to read:

12599. (a) "Commercial fundraiser for charitable purposes" is defined as any individual, corporation, or other legal entity who for compensation does either of the following:

(1) Solicits funds in this state for charitable purposes and who receives and controls the funds or assets solicited for charitable purposes.

(2) As a result of a solicitation of funds in this state for charitable purposes, receives and controls the funds or assets solicited for charitable purposes.

A commercial fundraiser for charitable purposes shall not include a "trustee" as defined in Section 12582 or 12583, a "charitable corporation" as defined in Section 12582.1, or any employee thereof. A commercial fundraiser for charitable purposes shall not include a person who is an employee of a commercial fundraiser for charitable purposes registered with the Attorney General.

(b) A commercial fundraiser for charitable purposes shall, prior to soliciting any funds in California for charitable purposes, or prior to receiving and controlling any funds or assets as a result of a solicitation in this state for charitable purposes, register with the Attorney General's Registry of Charitable Trusts on a registration form provided by the Attorney General. Renewals of registration shall be filed with the Registry of Charitable Trusts by January 15 of

each calendar year in which the commercial fundraiser for charitable purposes does business and shall be effective for one year. For 1990, a registration or renewal fee of two hundred dollars ($200) shall be required for registration of a commercial fundraiser for charitable purposes, and shall be payable by certified or cashier's check to the Attorney General's Registry of Charitable Trusts at the time of registration or renewal. The Attorney General may adjust the annual registration or renewal fee as needed to ensure that revenues will fully offset, but not exceed, the actual costs incurred by the Department of Justice pursuant to this section. The Attorney General's Registry of Charitable Trusts may grant extensions of time to file annual registration as required, pursuant to subdivision (b) of Section 12586.

(c) A commercial fundraiser for charitable purposes shall file with the Attorney General's Registry of Charitable Trusts, and with the sheriff of each county in which the fundraiser intends to solicit funds or the sheriff's designee, an annual financial report on a form provided by the Attorney General, accounting for all funds collected pursuant to any solicitation for charitable purposes during the preceding calendar year. The annual financial report shall be filed with the Attorney General's Registry of Charitable Trusts, and with the sheriff of each county in which the fundraiser intends to solicit funds or the sheriff's designee, no later than 30 days after the close of the preceding calendar year. Nothing in this section shall be construed as requiring the sheriff of any county, or the sheriff's designee, to maintain on file any annual financial report filed pursuant to this subdivision.

(d) The contents of the forms for annual registration and annual financial reporting by commercial fundraisers for charitable purposes shall be established by the Attorney General in a manner consistent with the procedures set forth in subdivisions (a) and (b) of Section 12586. The annual financial report shall require a detailed, itemized accounting of funds solicited for charitable purposes on behalf of each charitable organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code or for each charitable purpose during the accounting period, and shall include, among other data, the following information for funds solicited by the commercial fundraiser for charitable purposes:

(1) Total revenue.

(2) The fee or commission charged by the commercial fundraiser for charitable purposes.

(3) Salaries paid by the commercial fundraiser for charitable purposes to its officers and employees.

(4) Fundraising expenses.

(5) Distributions to the identified charitable organization or purpose.

(6) The names and addresses of any director, officer, or employee of the commercial fundraiser for charitable purposes who is a director, officer, or employee of any charitable organization listed in

the annual financial report.

(e) It shall be unlawful for any commercial fundraiser for charitable purposes to solicit funds in this state for charitable purposes unless the commercial fundraiser for charitable purposes has complied with the registration or annual renewal and financial reporting requirements of this article. Failure to comply with these registration or annual renewal and financial reporting requirements shall be grounds for injunction against solicitation in this state for charitable purposes and other civil remedies provided by law.

(f) A commercial fundraiser for charitable purposes is a constructive trustee for charitable purposes as to all funds collected pursuant to solicitation for charitable purposes and shall account to the Attorney General for all funds. A commercial fundraiser for charitable purposes is subject to the Attorney General's supervision and enforcement over charitable funds and assets to the same extent as a trustee for charitable purposes under this article.

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

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 17510.3 of the Business and Professions Code proposed by both this bill and AB 890. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 17510.3 of the Business and Professions Code, and (3) this bill is enacted after AB 890, in which case Section 1 of this bill shall not become operative.

CHAPTER 1151

An act to add Section 6715 to the Labor Code, relating to occupational safety and health.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 6715 is added to the Labor Code, to read:

6715. (a) The division, on or before July 1, 1992, shall compile existing research studies and other information current as of June 1, 1992, pertaining to the effects of continuous exposure to low-frequency magnetic radiation emitted by video display terminals, including personal computer screens and all other computer display monitors and report its findings to the Assembly Committee on Rules and the Senate Committee on Rules.

(b) On or before July 1, 1992, the State Department of Health

Services shall provide the Assembly Committee on Rules and the Senate Committee on Rules in writing of any information, current as of June 1, 1992, it has concerning the subject matter described in subdivision (a).

CHAPTER 1152

An act to add Section 1374.57 to the Health and Safety Code, and to add Sections 10121.6 and 11516.1 to the Insurance Code, relating to insurance.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 1374.57 is added to the Health and Safety Code, to read:

1374.57. (a) No group health care service plan which provides hospital, medical, or surgical expense benefits for employees or subscribers and their dependents shall exclude a dependent child from eligibility or benefits solely because the dependent child does not reside with the employee or subscriber.

(b) A health care service plan which provides hospital, medical, or surgical expense benefits for employees or subscribers and their dependents shall enroll, upon application by the employer or group administrator, a dependent child of the noncustodial parent when the parent is the employee or subscriber, at any time the noncustodial or custodial parent makes an application for enrollment to the employer or group administrator when a court order for medical support exists. The application to the employer or group administrator shall be made within 90 days of the issuance of the court order. In the case of children who are eligible for medicaid, the State Department of Health Services or the district attorney in whose jurisdiction the child resides may make that application.

(c) This section shall not be construed to require that a health care service plan enroll a dependent who resides outside the plan's geographic service area.

SEC. 2. Section 10121.6 is added to the Insurance Code, to read:

10121.6. (a) No policy of group disability insurance or self-insured employee welfare benefit plan which provides hospital, medical, or surgical expense benefits for employees, insureds, or policyholders and their dependents shall exclude a dependent child from eligibility or benefits solely because the dependent child does not reside with the employee, insured, or policyholder.

(b) Each policy of group disability insurance or self-insured employee welfare benefit plan which provides hospital, medical, or surgical expense benefits for employees, insureds, or policyholders

and their dependents shall enroll, upon application by the employer or group administrator, a dependent child of the noncustodial parent when that parent is the employee, insured, or policyholder at any time the noncustodial or custodial parent makes an application for enrollment to the employer or group administrator when a court order for medical support exists. The application to the employer or group administrator shall be made within 90 days of the issuance of the court order. In the case of children who are eligible for medicaid, the State Department of Health Services or the district attorney in whose jurisdiction the child resides may make that application.

SEC. 3. Section 11516.1 is added to the Insurance Code, to read:

11516.1. (a) No group nonprofit hospital service plan which provides hospital, medical, or surgical expense benefits for employees, members, or policyholders and their dependents shall exclude a dependent child from eligibility or benefits solely because the dependent child does not reside with the employee, member, or policyholder.

(b) A group nonprofit hospital service plan which provides hospital, medical, or surgical expense benefits for employees, members, or policyholders and their dependents shall enroll, upon application by the employer or group administrator, a dependent child of the noncustodial parent when that parent is the employee, member, or policyholder of the plan at any time the noncustodial or custodial parent makes an application for enrollment to the employer or group administrator when a court order for medical support exists. The application to the employer or group administrator shall be made within 90 days of the issuance of the court order. In the case of children who are eligible for medicaid, the State Department of Health Services or the district attorney in whose jurisdiction the child resides may make that application.

CHAPTER 1153

An act to add Sections 20100.3 and 20217 to the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor October 14, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 20100.3 is added to the Government Code, to read:

20100.3. The counsel to the board shall notify each new member of the board upon his or her assumption of office and each member of the board annually that he or she is subject to the gift provisions of the Ethics in Government Act of 1990, Chapter 9.5 (commencing with Section 89500) of Title 9.

SEC. 2. Section 20217 is added to the Government Code, to read:

20217. During any process involving a request for proposal or the selection of any vendor or contractor for goods or services by the board, no member shall communicate concerning any matter relating to the request for proposal or selection with any applicant or bidder, or an officer or employee of an applicant or bidder, outside of the application or bidding process. This section shall apply to investment products, including, but not limited to, bonds, real estate, and stocks.

CHAPTER 1154

An act to amend Section 10327 of the Elections Code, relating to elections.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 10327 of the Elections Code is amended to read:

10327. (a) The statement of all measures submitted to the voters shall be abbreviated on the ballot. The statement shall contain not more than 75 words of each measure to be voted on, followed by the words, "Yes" and "No." Abbreviation of measures to be voted on throughout the state shall be composed by the Attorney General and shall be a condensed statement of the ballot title prepared by him or her.

(b) For purposes of measures to be voted on throughout the state, the limitation contained in subdivision (a) shall apply to the total number of words used in the condensed statement of the ballot title and the financial impact summary prepared pursuant to Section 3572 and Section 88003 of the Government Code.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1155

An act to amend Section 2941 of, and to repeal Section 895 of, the Civil Code, relating to real property.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 895 of the Civil Code is repealed.

SEC. 2. Section 2941 of the Civil Code is amended to read:

2941. (a) Within 30 days after any mortgage has been satisfied, the mortgagee or the assignee of the mortgagee shall execute a certificate of the discharge thereof, as provided in Section 2939, and shall record or cause to be recorded, except as provided in subdivision (c), in the office of the county recorder in which the mortgage is recorded. The mortgagee shall then deliver, upon the written request of the mortgagor or the mortgagor's heirs, successors, or assignees, as the case may be, the original note and mortgage to the person making the request.

(b) (1) When the obligation secured by any deed of trust has been satisfied, the beneficiary or the assignee of the beneficiary shall execute and deliver to the trustee the original note, deed of trust, request for a full reconveyance, and such other documents as may be necessary to reconvey, or cause to be reconveyed, the deed of trust.

(A) The trustee shall execute the full reconveyance and shall record or cause it to be recorded, except as provided in subdivision (c), in the office of the county recorder in which the deed of trust is recorded within 21 calendar days after receipt by the trustee of the original note, deed of trust, request for a full reconveyance, the fee that may be charged pursuant to subdivision (e), recorder's fees, and such other documents as may be necessary to reconvey, or cause to be reconveyed, the deed of trust.

(B) The trustee shall deliver a copy of the reconveyance to the beneficiary, its successor in interest, or its servicing agent, if known.

(C) Following execution and recordation of the full reconveyance, upon receipt of a written request by the trustor or the trustor's heirs, successors, or assignees, the trustee shall then deliver the original note and deed of trust to the person making that request.

(2) If the trustee has failed to execute and record, or cause to be recorded, the full reconveyance within 60 calendar days of satisfaction of the obligation, the beneficiary, upon receipt of a written request by the trustor or trustor's heirs, successor in interest, agent, or assignee, shall execute and acknowledge a document pursuant to Section 2934a substituting itself or another as trustee and issue a full reconveyance.

(3) If a full reconveyance has not been executed and recorded pursuant to either paragraph (1) or paragraph (2) within 75 calendar

days of satisfaction of the obligation, then a title insurance company may prepare and record a release of the obligation. However, at least 10 days prior to the issuance and recording of a full release pursuant to this paragraph, the title insurance company shall mail by first-class mail with postage prepaid, the intention to release the obligation to the trustee, trustor, and beneficiary of record, or their successor in interest of record, at the last known address.

(A) The release shall set forth:

(i) The name of the beneficiary.

(ii) The name of the trustor.

(iii) The recording reference to the deed of trust.

(iv) A recital that the obligation secured by the deed of trust has been paid in full.

(v) The date and amount of payment.

(B) The release issued pursuant to this subdivision shall be entitled to recordation and, when recorded, shall be deemed to be the equivalent of a reconveyance of a deed of trust.

(4) Where an obligation secured by a deed of trust was paid in full prior to July 1, 1989, and no reconveyance has been issued and recorded by October 1, 1989, then a release of obligation as provided for in paragraph (3) may be issued.

(5) Paragraphs (2) and (3) do not excuse the beneficiary or the trustee from compliance with paragraph (1). Paragraph (3) does not excuse the beneficiary from compliance with paragraph (2).

(6) In addition to any other remedy provided by law, a title insurance company preparing or recording the release of the obligation shall be liable to any party for damages, including attorneys' fees, which any person may sustain by reason of the issuance and recording of the release, pursuant to paragraphs (3) and (4).

(c) The mortgagee or trustee shall not record or cause the certificate of discharge or full reconveyance to be recorded when any of the following circumstances exists:

(1) The mortgagee or trustee has received written instructions to the contrary from the mortgagor or trustor, or the owner of the land, as the case may be, or from the owner of the obligation secured by the deed of trust or his or her agent, or escrow.

(2) The certificate of discharge or full reconveyance is to be delivered to the mortgagor or trustor, or the owner of the land, as the case may be, through an escrow to which the mortgagor, trustor, or owner is a party.

(3) When the personal delivery is not for the purpose of causing recordation and when the certificate of discharge or full reconveyance is to be personally delivered with receipt acknowledged by the mortgagor or trustor or owner of the land, as the case may be, or their agent if authorized by mortgagor or trustor or owner of the land.

(d) The violation of any provision of this section shall make the violator liable to the person affected by the violation for all damages

which that person may sustain by reason of the violation, and shall require that the violator forfeit to that person the sum of three hundred dollars ($300).

(e) (1) The trustee, beneficiary, or mortgagee may charge a reasonable fee to the trustor or mortgagor, or the owner of the land, as the case may be, for all services involved in the preparation, execution, and recordation of the full reconveyance, including, but not limited to, document preparation and forwarding services rendered to effect the full reconveyance, and, in addition, may collect official fees. This fee may be made payable no earlier than the opening of a bona fide escrow or no more than 60 days prior to the full satisfaction of the obligation secured by the deed of trust or mortgage.

(2) If the fee charged pursuant to this subdivision does not exceed sixty-five dollars ($65), the fee is conclusively presumed to be reasonable. This paragraph shall only be operative until January 1, 1995.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1156

An act to amend Section 25684 of the Public Resources Code, relating to energy.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 25684 of the Public Resources Code is amended to read:

25684. The commission shall make loans and repayable research contracts, and may provide primary research contracts funding from the account for the purposes of making energy technologies more efficient and cost-effective, and to develop new cost-effective alternative sources of energy. The commission shall select recipients through a procedure using an invitation for bids or a request for proposals. Each invitation for bids and request for proposals shall specify the criteria to be used in selecting projects for financing. The

criteria shall include, but not be limited to, all of the following factors:

(a) The potential of the project to reduce consumption and increase the efficiency of nonrenewable energy sources and systems.

(b) The financial, technical, and management strength of the project applicant.

(c) The near-term and long-term feasibility of the project.

(d) The ability of the project technology to be used on other applications throughout California.

(e) The potential of the project for promoting diverse, secure, and resilient energy supplies.

(f) The potential of the project for reducing adverse environmental impacts.

(g) The potential of the project to stimulate economic development, employment, and tax revenues for California.

(h) The potential of the project for reducing short-term and long-term energy costs for the ratepayers of California.

(i) The need of the project for state financing.

(j) The ability of the project to garner private investment.

(k) The investment payback period for the project.

(*l*) The probability of success in overcoming the risk of the project.

(m) The potential for stimulating small business competition in the field of alternative energy development.

(n) The ability of the project to generate needed community economic development for participating local jurisdictions.

(o) The extent of the applicant's financial participation.

(p) The degree of innovation of the project.

(q) Whether the project is in general agreement with the energy policies of California regarding the energy technologies and priorities as set forth in the biennial report of the commission.

Contracts entered into pursuant to this section are not subject to Article 4 (commencing with Section 10335) or Article 5 (commencing with Section 10355) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code.

CHAPTER 1157

An act to amend Section 2813.5 of the Penal Code, and to add Section 22711 to the Vehicle Code, relating to prisons.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 2813.5 of the Penal Code is amended to read:

2813.5. Notwithstanding any other provision of this chapter

except subdivision (i) of Section 2808, and notwithstanding subdivision (*l*) of Section 22851.3 of the Vehicle Code, the Director of Corrections may provide for the inmates in trade and industrial education or vocational training classes established under Section 2054 to restore and rebuild donated salvageable and abandoned vehicles. If these vehicles comply with Section 24007.5 of the Vehicle Code, they may be sold at public auction to private persons. This activity shall be subject to the public hearing requirements of subdivision (i) of Section 2808 at any time that this activity involves a gross annual production of more than fifty thousand dollars ($50,000).

The proceeds of the sale after deduction of the cost of materials shall be deposited in the Restitution Fund in the State Treasury and, upon appropriation by the Legislature, may be used for indemnification of victims of crimes.

SEC. 2. Section 22711 is added to the Vehicle Code, to read:

22711. Notwithstanding any other provision of law, the California Highway Patrol, any city, county, or city and county which has an abandoned vehicle abatement program, and any service authority established under Section 22710, upon satisfying all applicable reporting requirements provided in this chapter, may, with the consent of the Director of Corrections, transport any abandoned vehicle to, and dispose of any abandoned vehicle at, any institution under the jurisdiction of the director which has a program established pursuant to Section 2813.5 of the Penal Code.

CHAPTER 1158

An act to add Article 8.5 (commencing with Section 7139) to Chapter 9 of Division 3 of the Business and Professions Code, relating to the Construction Management Education Sponsorship Act of 1991.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Article 8.5 (commencing with Section 7139) is added to Chapter 9 of Division 3 of the Business and Professions Code, to read:

Article 8.5. The Construction Management Education Sponsorship Act of 1991

7139. This article shall be known as the Construction Management Education Sponsorship Act of 1991.

7139.1. The Legislature hereby finds and declares all of the following:

(a) There is a demand and increasing need for construction management education programs and resources within the postsecondary education system that prepare graduates for the management of construction operations and companies regulated by the Contractors' State License Law and enforced by the Contractors' State License Board.

(b) Although construction management programs do exist within the state university system, these programs are woefully underfunded and insufficiently funded to provide training on state-of-the-art management information systems for either graduates or extension programs for continuing education of licensed contractors. Construction industry associations have provided some assistance through direct grants and scholarships, but the industrywide service of these programs and the need for additional assistance mandates broad based industrywide support.

(c) It is the intent of the Legislature that by enabling contractors to designate a portion of their licensure fee and providing a format for contractors to contribute funds to construction management education, this article will receive broad based industry support. In addition, this article allows the contractor to demonstrate the importance of construction management education. This assistance will enable greater development of construction management curricula and will improve the overall quality of construction by providing construction management training to California licensed contractors and their current and future management personnel.

7139.2. (a) There is hereby created the Construction Management Education Account (CMEA) as a separate account in the Contractors' License Fund for the purposes of construction management education. Funds in the account shall be available for the purposes of this article upon appropriation by the Legislature.

(b) The Contractors' State License Board shall allow a contractor to contribute twenty-five dollars ($25) to the Construction Management Education Account at the time of the contractor license fee payment. The license fee form shall clearly display this alternative on its face and shall clearly inform the licensee that this provision is a contribution to the Construction Management Education Account and is in addition to the fees.

(c) The board may accept grants from federal, state, or local public agencies, or from private foundations or individuals, in order to assist it in carrying out its duties, functions, and powers under this article. Grant moneys shall be deposited into the Construction Management Education Account.

7139.3. (a) The board may award grants to qualified public postsecondary educational institutions for the support of courses of study in construction management.

(b) Any organization of contractors, or organization of contractor organizations, incorporated under Division 2 (commencing with Section 5000) of the Corporations Code may request the board to award grants pursuant to subdivision (a) directly to qualified public

postsecondary educational institutions of its choice. However, the total amount of money which may be awarded to one public postsecondary educational institution pursuant to subdivision (a) may not exceed an amount equal to 25 percent of the total funds available under this article.

(c) The board shall establish an advisory committee to recommend grant awards. The advisory committee shall consist of 11 members, with at least one representative from each of the following contractor associations: Associated General Contractors of California, Associated Builders and Contractors, California Building Industry Association, National Electrical Contractors Association, Plumbing-Heating-Cooling Contractor's Association, Southern California Contractor's Association, and California Sheet Metal and Air Conditioning Contractor's Association. Members of the advisory committee shall not receive per diem or reimbursement for traveling and other expenses pursuant to Section 103 of the Business and Professions Code.

7139.4. Qualified public postsecondary educational institutions shall provide postsecondary construction management programs at the baccalaureate or higher level that either award or provide one of the following:

(a) A bachelor of science construction management degree accredited by the American Council for Construction Education.

(b) A degree with an American Council for Construction Education accredited option, including, but not limited to, engineering technology and industrial technology.

(c) A bachelor of science or higher degree program documenting placement of more than 50 percent of their graduates with California licensed contractors. The placement of a person who holds a master or doctorate degree in the faculty of a construction program shall be counted as though placed with a California licensed contractor.

(d) The development of a construction management curriculum to meet the American Council for Construction Education criteria.

7139.5. Grants shall be made pursuant to this article to public postsecondary educational institutions that meet the qualifications specified in Section 7139.4 in the following amounts:

(a) Three thousand dollars ($3,000) per graduate during the past academic year for institutions qualifying under subdivision (a) of Section 7139.4.

(b) Three thousand dollars ($3,000) per graduate during the past academic year for institutions qualifying under subdivision (b) of Section 7139.4.

(c) Three thousand dollars ($3,000) per graduate placed with California licensed contractors during the past academic year for institutions qualifying under subdivision (c) of Section 7139.4. These funds shall be used for the purpose of becoming accredited by the American Council for Construction Education and shall be available for up to three years. The board may continue to provide this grant to an institution that in its judgment is meeting the intent of this act

and is continuing its development towards accreditation.

(d) Institutions qualifying under subdivision (d) of Section 7139.4 may receive a grant in an amount up to twenty-five thousand dollars ($25,000) per year for up to two years. Thereafter, these institutions may receive grants based upon the criteria described in subdivisions (a) to (c), inclusive. The board may continue to award a grant to an institution that in its judgment is meeting the intent of this article and is continuing its development towards accreditation.

7139.6. (a) The grants issued pursuant to Sections 7139.3 and 7139.5 may be used for all of the following:

(1) Instructional materials and support, equipment, curriculum development, and delivery.

(2) Support and development of outreach, continuing education, and cooperative education or internship programs.

(3) Administrative and clerical support positions.

(4) Faculty recruitment and development, to include support for postgraduate work leading to advanced degrees, visiting lecturer compensation and expenses, teaching assistant positions, and faculty positions.

(b) Grant moneys may also be used to support general classroom and laboratory operating expenses and related administrative supplies, including, but not limited to, reference materials, testing equipment, and equipment maintenance. The list of support items in this subdivision and subdivision (a) are intended to be descriptive rather than limiting. "Support" does not include faculty salary supplements.

7139.7. The board shall report to the Legislature annually on the condition of the grant program and shall include in the report the names of the public postsecondary educational institutions involved, the amount of funds granted to each of those educational institutions, the purposes for which the funds were granted to each of those recipients, the number of students involved, the number of placements made to the construction industry for the previous academic year, and any other information the board considers relevant to the program.

7139.8. The president of each public postsecondary educational institution receiving a grant under this article shall submit, with its respective request for a grant each year following the initial year for which grants are issued, a report to the board delineating the amount of the past grant awarded from the Construction Management Education Account to that institution and the utilization of those funds. The report shall include, but not be limited to, the following:

(a) The number of graduates placed with the California licensed contractors during the previous academic year.

(b) The expected enrollment in construction management courses in the upcoming academic year.

(c) Continuing education and extension courses offered during the previous academic year and their enrollments.

7139.9. The board may allocate up to fifteen thousand dollars

($15,000) per year from the Construction Management Education Account for the administration of this article.

7139.10. It is the intent of the Legislature that state funding for the grants authorized to be awarded under this section be provided only from the Contractors' License Fund to the extent that funds are available in that fund and that no other state funding be provided for those grants.

CHAPTER 1159

An act to amend Section 21025 of the Government Code, relating to public employees' retirement.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 21025 of the Government Code is amended to read:

21025. If the medical examination and other available information show to the satisfaction of the board, or in case of a local safety member, other than a school safety member, the governing body of the contracting agency employing such member, that the member is incapacitated physically or mentally for the performance of his or her duties in the state service and is eligible to retire for disability, the board shall forthwith retire him or her for disability, unless the member is qualified to be retired for service and applies therefor prior to the effective date of his or her retirement for disability or within 30 days after the member is notified of his or her eligibility for retirement on account of disability, in which event the board shall retire the member for service. The governing body of a contracting agency upon receipt of the request of the board pursuant to Section 21024 shall certify to the board its determination under this section that the member is or is not so incapacitated. The local safety member may appeal the determination of the governing body. Appeal hearings shall be conducted by an administrative law judge of the Office of Administrative Hearings pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of this title.

CHAPTER 1160

An act to amend Sections 7002, 7003, 7018.5, 7019, 7020, 7026.1, 7028.1, 7045, 7046, 7054, 7058, 7058.5, 7068, 7099.10, 7111, 7115, 7118.5, 7118.6, 7125, 7140, 7150.1, 7151, 7151.2, 7152, 7153.2, 7159, and 7163 of, the heading of Article 7.5 (commencing with Section 7125) of Chapter 9 of Division 3 of, to amend and renumber Sections 7026.6, 7026.7, 7026.8, 7026.10, 7027, 7029.6, 7030.6, 7099.85, 7167.5, 7169, 7170, and 7172 of, to repeal and add Section 7026.3 of, to repeal Sections 7026.2, 7026.4, 7026.5, 7026.11, 7029.5, 7029.7, 7099.8, 7099.9, 7165, 7166, 7166.5, 7167, 7168, 7171, and 7173 of, the Business and Professions Code, relating to contractors.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 7002 of the Business and Professions Code is amended to read:

7002. One member of the board shall be a general engineering contractor, two members shall be general building contractors, two members shall be specialty contractors, one member shall be a member of a labor organization representing the building trades, and seven members shall be public members.

For the purposes of construing this article, the terms "general engineering contractor," "general building contractor," and "specialty contractor" shall have the meanings given in Article 4 (commencing with Section 7055) of this chapter.

Each contractor member of the board shall be of recognized standing in his or her branch of the contracting business. Each member of the board shall be at least 30 years of age and of good character.

Each member of the board shall have been a citizen and resident of the State of California for at least five years next preceding his or her appointment.

SEC. 2. Section 7003 of the Business and Professions Code is amended to read:

7003. Except as otherwise provided, an appointment to fill a vacancy caused by the expiration of the term of office shall be for a term of four years and shall be filled, except for a vacancy in the term of a public member, by a member from the same branch of the contracting business as was the branch of the member whose term has expired. A vacancy in the term of a public member shall be filled by another public member. Each member shall hold office until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which he or she was appointed, whichever first occurs.

Vacancies occurring in the membership of the board for any cause

shall be filled by appointment for the balance of the unexpired term.

No person shall serve as a member of the board for more than two consecutive terms.

The Governor shall appoint five of the public members and the six members qualified as provided in Section 7002. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member.

SEC. 3. Section 7018.5 of the Business and Professions Code is amended to read:

7018.5. The board shall prescribe a form entitled "Notice to Owner" which shall describe, in nontechnical language and in a clear and coherent manner using words with common and everyday meaning, the pertinent provisions of this state's mechanics' lien laws and the rights and responsibilities of an owner of property and a contractor thereunder, including the provisions relating to the filing of a contract concerning a work of improvement with the county recorder and the recording in that office of a contractor's payment bond for private work. Each contractor licensed under this chapter, prior to entering into a contract with an owner for work specified as home improvement or swimming pool construction pursuant to Section 7159, shall give a copy of this "Notice to Owner" to the owner, the owner's agent, or the payer.

SEC. 4. Section 7019 of the Business and Professions Code is amended to read:

7019. (a) If funding is made available for that purpose, the board may contract with licensed professionals, as appropriate, for the site investigation of consumer complaints. The registrar shall determine the rate of reimbursement for licensed professionals performing inspections on behalf of the board. All reports shall be completed on a form prescribed by the registrar.

(b) As used in this section, "licensed professionals" means, but is not limited to, engineers, architects, landscape architects, and geologists licensed, certificated, or registered pursuant to this division.

SEC. 5. Section 7020 of the Business and Professions Code is amended to read:

7020. The board shall maintain a computerized enforcement tracking system for consumer complaints.

SEC. 6. Section 7026.1 of the Business and Professions Code is amended to read:

7026.1. The term "contractor" includes:

(a) Any person not exempt under Section 7053 who maintains or services air-conditioning, heating, or refrigeration equipment that is a fixed part of the structure to which it is attached.

(b) Any person, consultant to an owner-builder, firm, association, organization, partnership, business trust, corporation, or company, who or which undertakes, offers to undertake, purports to have the capacity to undertake, or submits a bid, to construct any building or home improvement project, or part thereof.

(c) Any person not otherwise exempt by this chapter, who performs tree removal, tree pruning, stump removal, or engages in tree or limb cabling or guying. The term contractor does not include a person performing the activities of a nurseryman who in the normal course of routine work performs incidental pruning of trees, or guying of planted trees and their limbs. The term contractor does not include a gardener who in the normal course of routine work performs incidental pruning of trees measuring less than 15 feet in height after planting.

(d) Any person engaged in the business of drilling, digging, boring, or otherwise constructing, deepening, repairing, reperforating, or abandoning any water well, cathodic protection well, or monitoring well.

SEC. 7. Section 7026.2 of the Business and Professions Code is repealed.

SEC. 8. Section 7026.3 of the Business and Professions Code is repealed.

SEC. 9. Section 7026.3 is added to the Business and Professions Code, to read:

7026.3. For the purpose of this chapter, "contractor" includes any person who installs or contracts for the installation of carpet wherein the carpet is attached to the structure by any conventional method as determined by custom and usage in the trade; except that a seller of installed carpet who holds a retail furniture dealer's license under Chapter 3 (commencing with Section 19000) of Division 8 shall not be required to have a contractor's license if the installation of the carpet is performed by a licensed contractor and the seller so certifies in writing to the buyer prior to the performance of the installation, which certification shall include the name, business address, and contractor's license number of the licensed contractor by whom the installation will be performed.

SEC. 10. Section 7026.4 of the Business and Professions Code is repealed.

SEC. 11. Section 7026.5 of the Business and Professions Code is repealed.

SEC. 12. Section 7026.6 of the Business and Professions Code is amended and renumbered to read:

7027. Any person who advertises or puts out any sign or card or other device after the effective date of this section which would indicate to the public that he or she is a contractor, or who causes his or her name or business name to be included in a classified advertisement or directory after the effective date of this section under a classification for construction or work of improvement covered by this chapter is subject to the provisions of this chapter regardless of whether his or her operations as a builder are otherwise exempted.

SEC. 13. Section 7026.7 of the Business and Professions Code is amended and renumbered to read:

7027.1. (a) It is a misdemeanor for any person to advertise for

construction or work of improvement covered by this chapter unless that person holds a valid license under this chapter in the classification so advertised, except that a licensed building or engineering contractor may advertise as a general contractor.

(b) "Advertise," as used in this section, includes, but not by way of limitation, the issuance of any card, sign, or device to any person, the causing, permitting, or allowing of any sign or marking on or in any building or structure, or in any newspaper, magazine, or by airwave transmission, or in any directory under a listing for construction or work of improvement covered by this chapter, with or without any limiting qualifications.

(c) A violation of this section is punishable by a fine of not less than seven hundred dollars ($700) and not more than one thousand dollars ($1,000), which fine shall be in addition to any other punishment imposed for a violation of this section.

(d) If upon investigation, the registrar has probable cause to believe that an unlicensed individual is in violation of this section, the registrar may issue a citation pursuant to Section 7099.10.

SEC. 14. Section 7026.8 of the Business and Professions Code is amended and renumbered to read:

7027.2. Notwithstanding any other provision of this chapter, any person not licensed pursuant to this chapter may advertise for construction work or work of improvement covered by this chapter, provided that he or she shall state in the advertisement that he or she is not licensed under this chapter.

SEC. 15. Section 7026.10 of the Business and Professions Code is amended and renumbered to read:

7027.3. Any person, licensed or unlicensed, who willfully and intentionally uses, with intent to defraud, a contractor's license number which does not correspond to the number on a currently valid contractor's license held by that person, is punishable by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in state prison, or in county jail for not more than one year, or by both the fine and imprisonment. The penalty provided by this section is cumulative to the penalties available under all other laws of this state.

SEC. 16. Section 7026.11 of the Business and Professions Code is repealed.

SEC. 17. Section 7027 of the Business and Professions Code is amended and renumbered to read:

7026.2. (a) For the purposes of this chapter, "contractor" includes any person engaged in the business of the construction, installation, alteration, repair, or preparation for moving of a mobilehome or mobilehome accessory buildings and structures upon a site for the purpose of occupancy as a dwelling.

(b) "Contractor" does not include the manufacturer of the mobilehome or mobilehome accessory building or structure if it is constructed at a place other than the site upon which it is installed for the purpose of occupancy as a dwelling, and does not include the manufacturer when the manufacturer is solely performing work in

compliance with the manufacturer's warranty. "Contractor" includes the manufacturer if the manufacturer is engaged in onsite construction, alteration, or repair of a mobilehome or mobilehome accessory buildings and structures pursuant to specialized plans, specifications, or models, or any work other than in compliance with the manufacturer's warranty.

(c) "Contractor" does not include a seller of a manufactured home or mobilehome who holds a retail manufactured home or mobilehome dealer's license under Chapter 7 (commencing with Section 18045) of Part 2 of Division 13 of the Health and Safety Code, if the installation of the manufactured home or mobilehome is to be performed by a licensed contractor and the seller certifies that fact in writing to the buyer prior to the performance of the installation. The certification shall include the name, business address, and contractor's license number of the licensed contractor by whom the installation will be performed.

(d) For the purposes of this chapter, the following terms have the following meanings:

(1) "Mobilehome" means a vehicle defined in Section 18008 of the Health and Safety Code.

(2) "Mobilehome accessory building or structure" means a building or structure defined in Section 18008.5 of the Health and Safety Code.

(3) "Manufactured home" means a structure defined in Section 18007 of the Health and Safety Code.

SEC. 18. Section 7028.1 of the Business and Professions Code is amended to read:

7028.1. It is a misdemeanor for any contractor to perform or engage in asbestos-related work, as defined in Section 6501.8 of the Labor Code, without certification pursuant to Section 7058.5 of this code, or to perform or engage in a removal or remedial action, as defined in subdivision (d) of Section 7058.7, or, on or after January 1, 1992, bids for the installation or removal of, or installs or removes, an underground storage tank, without certification pursuant to Section 7058.7. A contractor in violation of this section is subject to one of the following penalties:

(a) Conviction of a first offense is punishable by a fine of not less than one thousand dollars ($1,000) or more than three thousand dollars ($3,000), and by possible revocation or suspension of any contractor's license.

(b) Conviction of a subsequent offense requires a fine of not less than three thousand dollars ($3,000) or more than five thousand dollars ($5,000), or imprisonment in the county jail not exceeding one year, or both the fine and imprisonment, and a mandatory action to suspend or revoke any contractor's license.

SEC. 19. Section 7029.5 of the Business and Professions Code is repealed.

SEC. 20. Section 7029.6 of the Business and Professions Code is amended and renumbered to read:

7029.5. Every plumbing contractor, electrical sign contractor, and well-drilling contractor licensed under this chapter shall have displayed on each side of each motor vehicle used in his or her business, for which a commercial vehicle registration fee has been paid pursuant to Article 3 (commencing with Section 9400) of Chapter 6 of Division 3 of the Vehicle Code, his or her name, permanent business address, and contractor's license number, all in letters and numerals not less than 1½ inches high.

The identification requirements of this section shall also apply to any drill rig used for the drilling of water wells.

Failure to comply with this section constitutes a cause for disciplinary action.

SEC. 21. Section 7029.7 of the Business and Professions Code is repealed.

SEC. 22. Section 7030.6 of the Business and Professions Code is amended and renumbered to read:

7099.11. (a) No person shall advertise, as that term is defined in Section 7026.7, to promote his or her services for the removal of asbestos unless he or she is certified to engage in asbestos-related work pursuant to Section 7058.5, and registered for that purpose pursuant to Section 6501.5 of the Labor Code. Each advertisement shall include that person's certification and registration numbers and shall use the same name under which that person is certified and registered.

(b) The registrar shall issue a notice to comply with the order of correction provisions of subdivision (a) of Section 7099.10, to any person who is certified and registered, as described in subdivision (a), and who fails to include in any advertisement his or her certification and registration numbers.

(c) The registrar shall issue a citation pursuant to Section 7099 to any person who fails to comply with the notice required by subdivision (b), or who advertises to promote his or her services for the removal of asbestos but does not possess valid certification and registration numbers as required by subdivision (a), or who fails to use in that advertisement the same name under which he or she is certified and registered.

Citations shall be issued and conducted pursuant to Sections 7099 to 7099.10, inclusive.

SEC. 23. Section 7045 of the Business and Professions Code is amended to read:

7045. This chapter does not apply to the sale or installation of any finished products, materials or articles of merchandise, which do not become a fixed part of the structure, nor shall it apply to a material supplier or manufacturer furnishing finished products, materials, or articles of merchandise who does not install or contract for the installation of those items. The term "finished products" shall not include installed carpets or mobilehomes or mobilehome accessory structures as defined in Section 7026.2.

This chapter shall apply to the installation of home improvement

goods, as defined in Section 7151.

SEC. 24. Section 7046 of the Business and Professions Code is amended to read:

7046. This chapter does not apply to any construction, alteration, improvement, or repair of personal property. The term "personal property" shall not include mobilehomes or mobilehome accessory structures as defined in Section 7026.2.

SEC. 25. Section 7054 of the Business and Professions Code is amended to read:

7054. This chapter does not apply to any person who performs work in the installation, maintenance, monitoring, selling, alteration, or servicing of alarm systems, as defined in subdivision (n) of Section 7590.1, and who holds an alarm company operator's license issued pursuant to Chapter 11.6 (commencing with Section 7590).

SEC. 26. Section 7058 of the Business and Professions Code is amended to read:

7058. (a) A specialty contractor is a contractor whose operations as such are the performance of construction work requiring special skill and whose principal contracting business involves the use of specialized building trades or crafts.

(b) A specialty contractor includes a contractor whose operations include the business of servicing or testing fire extinguishing systems.

(c) A specialty contractor includes a contractor whose operations are concerned with the installation and laying of carpets, linoleum, and resilient floor covering.

SEC. 27. Section 7058.5 of the Business and Professions Code is amended to read:

7058.5. (a) No contractor shall engage in asbestos-related work, as defined in Section 6501.8 of the Labor Code, which involves 100 square feet or more of surface area of asbestos containing materials, unless the qualifier for the license passes an asbestos certification examination. Additional updated asbestos certification examinations may be required based on new health and safety information. The decision on whether to require an updated certification examination shall be made by the Contractors' State License Board, in consultation with the Division of Occupational Safety and Health in the Department of Industrial Relations and the State Department of Health Services.

No asbestos certification examination shall be required for contractors involved with the installation, maintenance, and repair of asbestos cement pipe or sheets, vinyl asbestos floor materials, or asbestos bituminous or resinous materials.

"Asbestos" as used in this section, has the same meaning as defined in Section 6501.7 of the Labor Code.

(b) The Contractors' State License Board shall develop, and deliver to all applicants with the request for bond and fee, a booklet containing information relative to handling and disposal of asbestos, together with an open book examination concerning asbestos-related work. All applicants for an initial contractor's license and all

applicants filing a delinquent renewal application who have not previously completed the open book examination shall complete and sign the open book examination and submit it to the Contractors' State License Board with the required renewal or bond and fee.

SEC. 28. Section 7068 of the Business and Professions Code is amended to read:

7068. (a) The board shall require an applicant to show such degree of knowledge and experience in the classification applied for, and such general knowledge of the building, safety, health, and lien laws of the state and of the administrative principles of the contracting business as the board deems necessary for the safety and protection of the public.

(b) An applicant shall qualify in regard to his or her experience and knowledge in one of the following ways:

(1) If an individual, he or she shall qualify by personal appearance or by the appearance of his or her responsible managing employee who is qualified for the same license classification as the classification being applied for.

(2) If a copartnership or a limited partnership, it shall qualify by the appearance of a general partner or by the appearance of a responsible managing employee who is qualified for the same license classification as the classification being applied for.

(3) If a corporation, or any other combination or organization, it shall qualify by the appearance of a responsible managing officer or responsible managing employee who is qualified for the same license classification as the classification being applied for.

(c) An applicant who has been convicted of a violation of Section 7028 may not apply for a license for a one-year period from the date of conviction. Upon submittal of an application the applicant shall be subject to Section 7071.6.

(d) A responsible managing employee for the purpose of this chapter shall mean an individual who is a bona fide employee of the applicant and is actively engaged in the classification of work for which that responsible managing employee is the qualifying person in behalf of the applicant.

(e) The board shall, in addition, require an applicant who qualifies by means of a responsible managing employee under either paragraph (1) or (2) of subdivision (b) to show his or her general knowledge of the building, safety, health, and lien laws of the state and of the administrative principles of the contracting business as the board deems necessary for the safety and protection of the public.

(f) Except in accordance with Section 7068.1, no person qualifying on behalf of an individual or firm under paragraph (1), (2), or (3) of subdivision (b) shall hold any other active contractor's license while acting in the capacity of a qualifying individual pursuant to this section.

(g) At the time of application for renewal of a license, the responsible managing individual shall file a statement with the registrar, on a form prescribed by the registrar, verifying his or her

capacity as a responsible managing individual to the licensee.

(h) Statements made by or on behalf of an applicant as to the applicant's experience in the classification applied for shall be verified by a qualified and responsible person. In addition, the registrar shall, as specified by board regulation, randomly review a percentage of such statements for their veracity.

(i) The registrar shall review experience gained by applicants from other states to determine whether all of that experience was gained in a lawful manner in that state.

SEC. 29. Section 7099.8 of the Business and Professions Code is repealed.

SEC. 30. Section 7099.85 of the Business and Professions Code is amended and renumbered to read:

7028.17. (a) The failure of an unlicensed individual to comply with a citation after it is final is a misdemeanor.

(b) Notwithstanding Section 1462.5 or 1463 of the Penal Code or any other provision of law, any fine collected upon conviction in a criminal action brought under this section shall be distributed as follows:

(1) If the action is brought by a district attorney, any fine collected shall be paid to the treasurer of the county in which the judgment was entered to be designated for use by the district attorney.

(2) If the action is brought by a city attorney or city prosecutor, any fine collected shall be paid to the treasurer of the city in which the judgment was entered, to be designated for use by the city attorney.

SEC. 31. Section 7099.9 of the Business and Professions Code is repealed.

SEC. 32. Section 7099.10 of the Business and Professions Code is amended to read:

7099.10. (a) If, upon investigation, the registrar has probable cause to believe that a licensee, an applicant for a license, or an unlicensed individual acting in the capacity of a contractor who is not otherwise exempted from the provisions of this chapter, has violated Section 7026.7 by advertising for construction or work of improvement covered by this chapter in an alphabetical or classified directory, without being properly licensed, the registrar may issue a citation under Section 7099 containing an order of correction which requires the violator to cease the unlawful advertising and to notify the telephone company furnishing services to the violator to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising, and that subsequent calls to that number shall not be referred by the telephone company to any new telephone number obtained by that person.

(b) If the person to whom a citation is issued under subdivision (a) notifies the registrar that he or she intends to contest the citation, the registrar shall afford an opportunity for a hearing, as specified in Section 7099.5, within 90 days after receiving the notification.

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

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

SEC. 33. Section 7111 of the Business and Professions Code is amended to read:

7111. (a) Failure to make and keep records showing all contracts, documents, records, receipts, and disbursements by a licensee of all of his or her transactions as a contractor, and failure to have those records available for inspection by the registrar or his or her duly authorized representative for a period of not less than five years after completion of any construction project or operation to which the records refer, or refusal by a licensee to comply with a written request of the registrar to make the records available for inspection constitutes a cause for disciplinary action.

(b) Failure of a licensee, applicant, or registrant subject to the provisions of this chapter, who without lawful excuse, delays, obstructs, or refuses to comply with a written request of the registrar or designee for information or records, to provide that information or make available those records, when the information or records are required in the attempt to discharge any duty of the registrar, constitutes a cause for disciplinary action.

SEC. 34. Section 7115 of the Business and Professions Code is amended to read:

7115. Failure in any material respect to comply with the provisions of this chapter, or any rule or regulation adopted pursuant to this chapter, or to comply with the provisions of Section 7106 of the Public Contract Code, constitutes a cause for disciplinary action.

SEC. 35. Section 7118.5 of the Business and Professions Code is amended to read:

7118.5. Any contractor, applicant for licensure, or person required to be licensed, who, either knowingly or negligently, or by reason of a failure to inquire, enters into a contract with another person who is required to be, and is not, certified pursuant to Section 7058.5 to engage in asbestos-related work, as defined in Section 6501.8 of the Labor Code, is subject to the following penalties:

(a) Conviction of a first offense is an infraction punishable by a fine of not less than one thousand dollars ($1,000) or more than three thousand dollars ($3,000), and by possible revocation or suspension of any contractor's license.

(b) Conviction of a subsequent offense is a misdemeanor

requiring revocation or suspension of any contractor's license, and a fine of not less than three thousand dollars ($3,000) or more than five thousand dollars ($5,000), or imprisonment in the county jail for not more than one year, or both the fine and imprisonment.

SEC. 36. Section 7118.6 of the Business and Professions Code is amended to read:

7118.6. Any contractor who, either knowingly or negligently, or by reason of a failure to inquire, enters into a contract with another person who is required to be, and is not certified pursuant to Section 7058.7 to engage in a removal or remedial action, as defined in Section 7058.7, is subject to the following penalties:

(a) Conviction of a first offense is an infraction punishable by a fine of not less than one thousand dollars ($1,000) or more than three thousand dollars ($3,000), and by possible revocation or suspension of any contractor's license.

(b) Conviction of a subsequent offense is a misdemeanor requiring revocation or suspension of any contractor's license, and a fine of not less than three thousand dollars ($3,000) or more than five thousand dollars ($5,000), or imprisonment in the county jail for not more than one year, or both the fine and imprisonment.

SEC. 37. The heading of Article 7.5 (commencing with Section 7125) of Chapter 9 of Division 3 of the Business and Professions Code is amended to read:

Article 7.5. Workers' Compensation Insurance Reports

SEC. 38. Section 7125 of the Business and Professions Code is amended to read:

7125. Every person licensed as a contractor shall report in writing the name and address of the insurer carrying workers' compensation insurance on his or her employees to the registrar within 90 days after any policy of insurance is issued to him or her and shall send a copy of this report to the insurer.

The insurer, including the State Compensation Insurance Fund, shall thereafter report to the registrar any cancellation or lapse of the policy within 10 days after the cancellation or lapse. A renewal of a policy or a new policy in lieu of one that has expired is not considered a cancellation or lapse.

SEC. 39. Section 7140 of the Business and Professions Code is amended to read:

7140. All licenses issued under the provisions of this chapter shall expire two years from the last day of the month in which the license is issued, or two years from the date on which the renewed license last expired.

To renew a license which has not expired, the licensee shall, before the time at which the license would otherwise expire, apply for renewal on a form prescribed by the registrar and pay the renewal fee prescribed by this chapter. Renewal of an unexpired license shall continue the license in effect for the two-year period following the

expiration date of the license, when it shall expire if it is not again renewed.

SEC. 40. Section 7150.1 of the Business and Professions Code is amended to read:

7150.1. A home improvement contractor, including a swimming pool contractor, is a contractor as defined and licensed under this chapter who is engaged in the business of home improvement either full time or part time.

SEC. 41. Section 7151 of the Business and Professions Code is amended to read:

7151. "Home improvement" means the repairing, remodeling, altering, converting, or modernizing of, or adding to, residential property and shall include, but not be limited to, the construction, erection, replacement, or improvement of driveways, swimming pools, including spas and hot tubs, terraces, patios, awnings, storm windows, landscaping, fences, porches, garages, fallout shelters, basements, and other improvements of the structures or land which is adjacent to a dwelling house. "Home improvement" shall also mean the installation of home improvement goods or the furnishing of home improvement services.

For purposes of this chapter, "home improvement goods or services" means goods and services, as defined in Section 1689.5 of the Civil Code, which are bought in connection with the improvement of real property. Such home improvement goods and services include, but are not limited to, carpeting, texture coating, fencing, air conditioning or heating equipment, and termite extermination. Home improvement goods include goods which are to be so affixed to real property as to become a part of real property whether or not severable therefrom.

SEC. 42. Section 7151.2 of the Business and Professions Code is amended to read:

7151.2. "Home improvement contract" means an agreement, whether oral or written, or contained in one or more documents, between a contractor and an owner or between a contractor and a tenant, regardless of the number of residence or dwelling units contained in the building in which the tenant resides, if the work is to be performed in, to, or upon the residence or dwelling unit of the tenant, for the performance of a home improvement as defined in Section 7151, and includes all labor, services, and materials to be furnished and performed thereunder. "Home improvement contract" also means an agreement, whether oral or written, or contained in one or more documents, between a salesperson, whether or not he or she is a home improvement salesperson, and (a) an owner or (b) a tenant, regardless of the number of residence or dwelling units contained in the building in which the tenant resides, which provides for the sale, installation, or furnishing of home improvement goods or services.

SEC. 43. Section 7152 of the Business and Professions Code is amended to read:

7152. (a) "Home improvement salesperson" is a person employed by a home improvement contractor licensed under this chapter to solicit, sell, negotiate, or execute contracts for home improvements, for the sale, installation or furnishing of home improvement goods or services, or of swimming pools, spas, or hot tubs.

(b) The following shall not be required to be registered as home improvement salespersons:

(1) An officer of record of a corporation licensed pursuant to this chapter.

(2) A qualifying person, as defined in Section 7068.

(3) A salesperson whose sales are all made pursuant to negotiations between the parties if the negotiations are initiated by the prospective buyer at or with a general merchandise retail establishment that operates from a fixed location where goods or services are offered for sale.

(4) A person who contacts the prospective buyer for the exclusive purpose of scheduling appointments for a registered home improvement salesperson.

(5) A bona fide service repairperson who is in the employ of a licensed contractor and whose repair or service call is limited to the service, repair, or emergency repair initially requested by the buyer of the service.

SEC. 44. Section 7153.2 of the Business and Professions Code is amended to read:

7153.2. All registrations issued under the provisions of this article shall expire on a date established pursuant to Section 152.6.

SEC. 45. Section 7159 of the Business and Professions Code is amended to read:

7159. This section shall apply only to home improvement contracts, as defined in Section 7151.2, between a contractor, whether a general contractor or a specialty contractor, who is licensed or subject to be licensed pursuant to this chapter with regard to the transaction and who contracts with an owner or tenant for work upon a residential building or structure, or upon land adjacent thereto, for proposed repairing, remodeling, altering, converting, modernizing, or adding to the residential building or structure or land adjacent thereto, and where the aggregate contract price specified in one or more improvement contracts, including all labor, services, and materials to be furnished by the contractor, exceeds five hundred dollars ($500).

Every home improvement contract and every contract the primary purpose of which is the construction of a swimming pool, shall be subject to the provisions of this section. Every contract and any changes in the contract subject to the provisions of this section shall be evidenced by a writing and shall be signed by all the parties to the contract thereto. The writing shall contain the following:

(a) The name, address, and license number of the contractor, and the name and registration number of any salesperson who solicited

or negotiated the contract.

(b) The approximate dates when the work will begin and on which all construction is to be completed.

(c) A plan and scale drawing showing the shape, size dimensions, and construction and equipment specifications for a swimming pool and for other home improvements, a description of the work to be done and description of the materials to be used and the equipment to be used or installed, and the agreed consideration for the work.

(d) If the payment schedule contained in the contract provides for a downpayment to be paid to the contractor by the owner or the tenant before the commencement of work, the downpayment shall not exceed two hundred dollars ($200) or 2 percent of the contract price for swimming pools, or one thousand dollars ($1,000) or 10 percent of the contract price for other home improvements, excluding finance charges, whichever is the lesser.

(e) A schedule of payments showing the amount of each payment as a sum in dollars and cents. In no event shall the payment schedule provide for the contractor to receive, or shall the contractor actually receive, payments in excess of 100 percent of the value of the work performed on the project at any time, excluding finance charges, except that the contractor may receive an initial downpayment authorized by subdivision (d). With respect to a swimming pool contract the final payment may be made at the completion of the final plastering phase of construction provided that any installation or construction of equipment, decking, or fencing required by the contract is also completed. A failure by the contractor without lawful excuse to substantially commence work within twenty (20) days of the approximate date specified in the contract when work will begin shall postpone the next succeeding payment to the contractor for that period of time equivalent to the time between when substantial commencement was to have occurred and when it did occur. The schedule of payments shall be stated in dollars and cents, and shall be specifically referenced to the amount of work or services to be performed and to any materials and equipment to be supplied. With respect to a contract which provides for a schedule of monthly payments to be made by the owner or tenant and for a schedule of payments to be disbursed to the contractor by a person or entity to whom the contractor intends to assign the right to receive the owner's or tenant's monthly payments, the payments referred to in this subdivision mean the payments to be disbursed by the assignee and not those payments to be made by the owner or tenant.

(f) The contract shall state that upon satisfactory payment being made for any portion of the work performed, the contractor shall, prior to any further payment being made, furnish to the person contracting for the home improvement or swimming pool a full and unconditional release from any claim or mechanic's lien pursuant to Section 3114 of the Civil Code, for that portion of the work for which payment has been made.

(g) The requirements of subdivisions (d), (e), and (f) shall not

apply when the contract provides for the contractor to furnish a performance and payment bond, lien and completion bond, bond equivalent, or joint control approved by the Registrar of Contractors covering full performance and completion of the contract and the bonds or joint control is or are furnished by the contractor, or when the parties agree for full payment to be made upon or for a schedule of payments to commence after satisfactory completion of the project. The contract shall contain in close proximity to the signatures of the owner and contractor a notice in at least 10-point type stating that the owner or tenant has the right to require the contractor to have a performance and payment bond.

(h) No extra or change-order work shall be required to be performed without prior written authorization of the person contracting for the construction of the home improvement or swimming pool. Any change-order forms for changes or extra work shall be incorporated in, and become a part of the contract.

(i) If the contract provides for a payment of a salesperson's commission out of the contract price, that payment shall be made on a pro rata basis in proportion to the schedule of payments made to the contractor by the disbursing party in accordance with subdivision (e).

(j) The language of the notice required pursuant to Section 7018.5.

(k) What constitutes substantial commencement of work pursuant to the contract.

(*l*) A notice that failure by the contractor without lawful excuse to substantially commence work within twenty (20) days from the approximate date specified in the contract when work will begin is a violation of the Contractors License Law.

(m) If the contract provides for a contractor to furnish joint control, the contractor shall not have any financial or other interest in the joint control.

A failure by the contractor without lawful excuse to substantially commence work within 20 days from the approximate date specified in the contract when work will begin is a violation of this section.

This section shall not be construed to prohibit the parties to a home improvement contract from agreeing to a contract or account subject to Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3 of the Civil Code.

The writing may also contain other matters agreed to by the parties to the contract.

The writing shall be legible and shall be in a form that clearly describes any other document which is to be incorporated into the contract, and before any work is done, the owner shall be furnished a copy of the written agreement, signed by the contractor.

For purposes of this section, the board shall, by regulation, determine what constitutes "without lawful excuse."

The provisions of this section are not exclusive and do not relieve the contractor or any contract subject to it from compliance with all other applicable provisions of law.

A violation of this section by a licensee, or a person subject to be licensed, under this chapter, his or her agent, or salesperson is a misdemeanor punishable by a fine of not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000) or by imprisonment in the county jail not exceeding one year, or by both fine and imprisonment.

SEC. 46. Section 7163 of the Business and Professions Code is amended to read:

7163. (a) No contract for home improvement shall be enforceable against the buyer if the obtaining of a loan for all or a portion of the contract price is a condition precedent to the contract or if the contractor provides financing, or in any manner assists the buyer to obtain a loan or refers the buyer to any person who may loan or arrange a loan for all or a portion of the contract price unless all of the following requirements are satisfied:

(1) The third party, if any, agrees to make the loan.

(2) The buyer agrees to accept the loan or financing.

(3) The buyer does not rescind the loan or financing transaction, within the period prescribed for rescission, pursuant to the federal Truth in Lending Act (15 U.S.C. 1601 et seq.) or Regulation Z, if applicable.

(b) Until the requirements of paragraphs (1), (2), and (3) of subdivision (a) are satisfied, it shall be unlawful for the contractor to do any of the following:

(1) Deliver any property or perform any services other than obtaining building permits or other similar services preliminary to the commencement of the home improvement for which no mechanic's lien can be claimed.

(2) Represent in any manner that the contract is enforceable or that the buyer has any obligation thereunder.

Any violation of this subdivision shall render the contract unenforceable.

(c) If the contract is unenforceable pursuant to subdivision (a) or subdivision (b), the contractor shall immediately and without condition return all money, property, and other consideration given by the buyer. If the buyer gave any property as consideration and the contractor does not or cannot return it for whatever reason, the contractor shall immediately return the fair market value of the property or its value as designated in the contract, whichever is greater. Nothing herein shall prohibit a contractor from receiving a downpayment otherwise permitted by law provided the contractor returns the downpayment as herein required if the contract is unenforceable pursuant to subdivision (a) or (b).

(d) (1) Except as provided in paragraph (2), the buyer may retain without obligation in law or equity any services or property provided pursuant to a contract which is unenforceable pursuant to subdivision (a) or subdivision (b).

(2) If the contractor has delivered any property to the buyer pursuant to a contract which is unenforceable pursuant to

subdivision (a) or subdivision (b), the buyer shall make the property available to the contractor for return provided that all of the following requirements are satisfied:

(A) The property can be practically returned to the contractor without causing any damage to the buyer.

(B) The contractor, at the contractor's expense, first returns to the buyer any money, property, and other consideration taken by the contractor provided that the property is returned in the condition that it was in immediately prior to its taking. If applicable, the contractor shall also, at its expense, reinstall any property taken in the manner in which the property had been installed prior to its taking.

(C) The contractor, at the contractor's expense, picks up the property within 60 days of the execution of the contract.

(e) For the purpose of this section, "home improvement" means "home improvement" as defined in Section 7151. Goods are included within the definition notwithstanding whether they are to be attached to real property or to be so affixed to real property as to become a part thereof whether or not severable therefrom.

(f) The rights and remedies provided the buyer under this section are nonexclusive and cumulative to all other rights and remedies under other laws.

(g) Any waiver of this section shall be deemed contrary to public policy and shall be void and unenforceable. However, the buyer may waive subdivisions (a) and (b) to the extent that the contract is executed in connection with the making of emergency repairs or services which are necessary for the immediate protection of persons or real or personal property. The buyer's waiver for emergency repairs or services shall be in a dated written statement that describes the emergency, states that the contractor has informed the buyer of subdivisions (a) and (b) and that the buyer waives those provisions, and is signed by each owner of the property. Waivers made on printed forms are void and unenforceable.

SEC. 47. Section 7165 of the Business and Professions Code is repealed.

SEC. 48. Section 7166 of the Business and Professions Code is repealed.

SEC. 49. Section 7166.5 of the Business and Professions Code is repealed.

SEC. 50. Section 7167 of the Business and Professions Code is repealed.

SEC. 51. Section 7167.5 of the Business and Professions Code is amended and renumbered to read:

7165. The requirements of this section may be substituted for the requirements of paragraphs (1), (2), and (3) of subdivision (a) of Section 7163 if a swimming pool contract is to be financed by a third-party lender and if all the following conditions are met:

(a) The lender has agreed, in writing, to provide financing to the buyer for the maximum estimated construction cost of the swimming

pool.

(b) The lender has provided the buyer a written copy of the terms and conditions of the loan for the maximum estimated construction cost of the swimming pool, including the following terms disclosed in the manner required by the federal Truth in Lending Act and Regulation Z: the annual percentage rate, the finance charge, the amount financed, the total number of payments, the payment schedule, and a description of the security interest to be taken by the lender.

(c) The lender has agreed in writing to the following:

(1) To offer to loan the maximum estimated construction cost on the terms and conditions disclosed pursuant to subdivision (b).

(2) If the construction cost of the swimming pool is determined after the completion of excavation to be less than the maximum estimated construction cost, to offer to loan the lesser amount needed to complete the construction of the swimming pool on the same security as, and at an annual percentage rate and monthly payment amount not to exceed, that disclosed in subdivision (b).

The lender's written agreement shall state the duration of the offer, which shall not be less than 15 days following the completion of the excavation of the swimming pool.

(d) The buyer acknowledges receipt of the writings required by subdivisions (a), (b), and (c) and, no sooner than three business days after receiving all of these writings, requests on the form prescribed in subdivision (e) that the contractor begin performance of the swimming pool contract prior to the expiration of any rescission period applicable to the loan.

(e) The request of a buyer, described in subdivision (d), shall be set forth on a document separate and apart from the swimming pool contract and shall contain the following notice in at least 10-point type unless otherwise stated:

"NOTICE

Under the law, this contract is not enforceable until:

(1) A third party agrees to make a loan to finance the construction cost of the swimming pool;

(2) You agree to accept the loan; and

(3) You do not cancel the loan within the period prescribed for cancellation under the federal Truth in Lending Act or Regulation Z (usually three business days after the loan is consummated).

Until the cancellation period is over, the contractor cannot deliver any materials or perform any services except preliminary services for which no mechanic's lien can be claimed.

However, as an alternative to the above, you can ask the contractor to start work and deliver materials before the cancellation period on the loan is over if all of the following have occurred:

(1) The lender has agreed, in writing, to provide you with financing for up to the maximum estimated construction cost of the

swimming pool.

(2) The lender has provided you with a written copy of the terms and conditions of a loan for the maximum estimated cost, including the annual percentage rate, the finance charge, the amount financed, the total of payments, the payment schedule, and a description of the security interest to be taken by the lender.

(3) The lender has agreed in writing to offer these terms and conditions for a period not less than 15 days following completion of the excavation of the swimming pool.

(4) Three business days have passed since you received the writing mentioned in paragraphs (1), (2), and (3), and you then sign a copy of this form to request that the contractor begin construction of the swimming pool before the cancellation period on your loan is over.

The first day you can sign the request for the contractor to begin construction of the swimming pool is

_____.

(contractor to insert third business day after buyer receives writings described in subdivisions (a), (b), and (c))

If you sign this request, the contractor will be permitted to immediately begin performance of the contract, and if the contractor is not paid in accordance with the terms of the contract, he or she may file a lien against your property for the value of the labor and materials provided. [This paragraph shall be printed in 12-point type.]

REQUEST

I/we request that the contractor immediately start construction of the swimming pool.

_____ _____

Date Buyer(s)"

(f) The contractor shall provide the buyer a copy of the buyer's signed request at the time of signature.

(g) This section applies to each buyer who signs the swimming pool contract or the promissory note, other evidence of indebtedness, or security instrument incident to the loan for swimming pool construction.

(h) For the purpose of this section, "business day" has the meaning provided in Section 9 of the Civil Code.

SEC. 52. Section 7168 of the Business and Professions Code is repealed.

SEC. 53. Section 7169 of the Business and Professions Code is amended and renumbered to read:

7168. In any action between a person contracting for construction of a swimming pool and a swimming pool contractor arising out of a contract for swimming pool construction, the court shall award reasonable attorney's fees to the prevailing party.

SEC. 54. Section 7170 of the Business and Professions Code is amended and renumbered to read:

7166. The provisions of Article 10 shall not apply to contracts for the construction of swimming pools to be built for the use and enjoyment of other than a single-family unit upon or contiguous to premises occupied only by a single-family unit, nor shall they apply to the construction of swimming pools built as part of an original building plan by the same contractor who builds a single-family dwelling unit on the premises.

SEC. 55. Section 7171 of the Business and Professions Code is repealed.

SEC. 56. Section 7172 of the Business and Professions Code is amended and renumbered to read:

7167. Any contract the primary purpose of which is the construction of a swimming pool which does not substantially comply with the applicable provisions of subdivisions (b), (c), (d), (e), (f), and (h) of Section 7159, shall be void and unenforceable by the contractor as contrary to public policy.

SEC. 57. Section 7173 of the Business and Professions Code is repealed.

SEC. 58. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1161

An act to amend Section 1010 of, and to add Section 12948.1 to, the Water Code, relating to water.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 1010 of the Water Code is amended to read:

1010. (a) (1) The cessation of, or reduction in, the use of water under any existing right regardless of the basis of right, as the result of the use of reclaimed water, desalinated water, or water polluted by waste to a degree which unreasonably affects the water for other beneficial uses, is deemed equivalent to, and for purposes of maintaining any right shall be construed to constitute, a reasonable

beneficial use of water to the extent and in the amount that the reclaimed, desalinated, or polluted water is being used not exceeding, however, the amount of such reduction.

(2) No lapse, reduction, or loss of any existing right shall occur under a cessation of, or reduction in, the use of water pursuant to this subdivision, and, to the extent and in the amount that reclaimed, desalinated, or polluted water is used in lieu of water appropriated by a permittee pursuant to Chapter 6 (commencing with Section 1375) of Part 2, the board shall not reduce the appropriation authorized in the user's permit.

(3) The use of reclaimed, desalinated, or polluted water constitutes good cause under Section 1398 to extend the period specified in a permit for application of appropriated water to beneficial use to the extent and in the amount that reclaimed, desalinated, or polluted water is used. The extension by the board shall be granted upon the same terms as are set forth in the user's permit, and for a period sufficient to enable the permittee to perfect his appropriation, while continuing to use reclaimed, desalinated, or polluted water.

(4) The board, in issuing a license pursuant to Article 3 (commencing with Section 1610) of Chapter 9 of Part 2, shall not reduce the appropriation authorized by permit, to the extent and in the amount that reduction in a permittee's use, during the perfection period, including any extention as provided in this section, has resulted from the use of reclaimed, desalinated, or polluted water in lieu of the permittee's authorized appropriation.

(5) The board may require any user of water who seeks the benefit of this section to file periodic reports describing the extent and amount of the use of reclaimed, desalinated, or polluted water. To the maximum extent possible, the reports shall be made a part of other reports required by the board relating to the use of water.

(6) For purposes of this section, the term "reclaimed water" has the same meaning as in Division 7 (commencing with Section 13000).

(b) Water, or the right to the use of water, the use of which has ceased or been reduced as the result of the use of reclaimed, desalinated, or polluted water as described in subdivision (a), may be sold, leased, exchanged, or otherwise transferred pursuant to any provision of law relating to the transfer of water or water rights, including, but not limited to, provisions of law governing any change in point of diversion, place of use, and purpose of use due to the transfer.

SEC. 2. Section 12948.1 is added to the Water Code, to read:

12948.1. The department shall provide assistance to persons or entities with state and local desalination facility permit applications seeking to construct desalination facilities for reducing the concentration of dissolved solids in brackish groundwater or seawater in the state.

CHAPTER 1162

An act to amend Section 4532 of the Penal Code, relating to correctional facilities.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 4532 of the Penal Code is amended to read:

4532. (a) Every prisoner arrested and booked for, charged with, or convicted of a misdemeanor, and every person committed under the terms of Section 5654, 5656, or 5677 of the Welfare and Institutions Code as an inebriate, who is confined in any county or city jail or prison or industrial farm or industrial road camp or who is engaged on any county road or other county work or who is in the lawful custody of any officer or person, or who is employed or continuing in his or her regular educational program or authorized to secure employment or education away from the place of confinement, pursuant to the Cobey Work Furlough Law (Section 1208), or who is authorized for temporary release for family emergencies or for purposes preparatory to his or her return to the community pursuant to Section 4018.6, and who thereafter escapes or attempts to escape from the county or city jail, prison, industrial farm or industrial road camp or from the custody of the officer or person in charge of him or her while engaged in or going to or returning from the county work or from the custody of any officer or person in whose lawful custody he or she is, is guilty of a felony and, if the escape or attempt to escape was not by force or violence, is punishable by imprisonment in the state prison for a determinate term of one year and one day, or in the county jail not exceeding one year. However, if the escape or attempt to escape is by force or violence, the person is guilty of a felony and is punishable by imprisonment in the state prison for two, four, or six years to be served consecutively, or in the county jail not exceeding one year. When the second term of imprisonment is to be served in the county jail, it shall commence from the time the prisoner would otherwise have been discharged from jail.

The willful failure of a prisoner, whether convicted of a felony or a misdemeanor, employed or continuing in his or her regular educational program or authorized to secure employment or education pursuant to the Cobey Work Furlough Law (Section 1208) or authorized for temporary release for family emergencies or for purposes preparatory to his or her return to the community pursuant to Section 4018.6, to return to the place of confinement not later than the expiration of a period during which, pursuant to that law, he or she is authorized to be away from that place of confinement, is an escape from the place of confinement punishable as provided in this

subdivision.

A conviction of violation of this subdivision, not by force or violence, shall not be charged as a prior felony conviction in any subsequent prosecution for a public offense.

(b) Every prisoner arrested and booked for, charged with, or convicted of a felony, and every person committed by order of the juvenile court, who is confined in any county or city jail or prison or industrial farm or industrial road camp or who is engaged on any county road or other county work or who is in the lawful custody of any officer or person, or who is confined pursuant to Section 4011.9, who escapes or attempts to escape from the county or city jail, prison, industrial farm or industrial road camp or from the custody of the officer or person in charge of him or her while engaged in or going to or returning from the county work or from the custody of any officer or person in whose lawful custody he or she is, or from confinement pursuant to Section 4011.9, is guilty of a felony and, if the escape or attempt to escape was not by force or violence, is punishable by imprisonment in the state prison for 16 months, or two or three years to be served consecutively, or in the county jail not exceeding one year. If the escape or attempt to escape is by force or violence, the person is guilty of a felony and is punishable by imprisonment in the state prison for a full term of two, four, or six years to be consecutive to any other term of imprisonment, commencing from the time the person would otherwise have been released from imprisonment and the term shall not be subject to reduction pursuant to subdivision (a) of Section 1170.1, or in the county jail for a consecutive term not to exceed one year, that term to commence from the time the prisoner would otherwise have been discharged from the jail.

(c) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to any person who is convicted of a felony offense under this section in that he or she escaped or attempted to escape from a secure main jail facility, from a court building or while being transported between the court building and the jail facility. In any case in which a person is convicted of such an offense designated as a misdemeanor, he or she shall be confined in the county jail for not less than 90 days nor more than one year except in unusual cases where the interests of justice would best be served by the granting of probation. For the purposes of this subdivision, "main jail facility" means the facility used for the detention of persons pending arraignment, after arraignment, during trial, and upon sentence or commitment. The facility shall not include an industrial farm, industrial road camp, work furlough facility, or any other nonsecure facility used primarily for sentenced prisoners. As used in this subdivision, "secure" means that the facility contains an outer perimeter characterized by the use of physically restricting construction, hardware, and procedures designed to eliminate ingress and egress from the facility except through a closely

supervised gate or doorway.

If the court grants probation under this subdivision, it shall specify the reason or reasons for that order on the court record.

Any sentence imposed under this subdivision shall be served consecutive to any other sentence in effect or pending.

SEC. 2. Section 4532 of the Penal Code is amended to read:

4532. (a) Every prisoner arrested and booked for, charged with, or convicted of a misdemeanor, and every person committed under the terms of Section 5654, 5656, or 5677 of the Welfare and Institutions Code as an inebriate, who is confined in any county or city jail, prison, industrial farm, or industrial road camp or who is engaged on any county road or other county work or who is in the lawful custody of any officer or person, or who is employed or continuing in his or her regular educational program or authorized to secure employment or education away from the place of confinement, pursuant to the Cobey Work Furlough Law (Section 1208), or who is authorized for temporary release for family emergencies or for purposes preparatory to his or her return to the community pursuant to Section 4018.6, or who is a participant in a home detention program pursuant to Section 1203.016, and who thereafter escapes or attempts to escape from the county or city jail, prison, industrial farm, or industrial road camp or from the custody of the officer or person in charge of him or her while engaged in or going to or returning from the county work or from the custody of any officer or person in whose lawful custody he or she is, is guilty of a felony and, if the escape or attempt to escape was not by force or violence, is punishable by imprisonment in the state prison for a determinate term of one year and one day, or in the county jail not exceeding one year. However, if the escape or attempt to escape is by force or violence, the person is guilty of a felony and is punishable by imprisonment in the state prison for two, four, or six years to be served consecutively, or in the county jail not exceeding one year. When the second term of imprisonment is to be served in the county jail, it shall commence from the time the prisoner would otherwise have been discharged from jail.

The willful failure of a prisoner, whether convicted of a felony or a misdemeanor, employed or continuing in his or her regular educational program, authorized to secure employment or education pursuant to the Cobey Work Furlough Law (Section 1208), authorized for temporary release for family emergencies or for purposes preparatory to his or her return to the community pursuant to Section 4018.6, or permitted to participate in a home detention program pursuant to Section 1203.016 to return to the place of confinement not later than the expiration of a period during which, pursuant to that law, he or she is authorized to be away from that place of confinement, is an escape from the place of confinement punishable as provided in this subdivision.

A conviction of violation of this subdivision, not by force or violence, shall not be charged as a prior felony conviction in any

subsequent prosecution for a public offense.

(b) Every prisoner arrested and booked for, charged with, or convicted of a felony, and every person committed by order of the juvenile court, who is confined in any county or city jail, prison, industrial farm, or industrial road camp or who is engaged on any county road or other county work or who is in the lawful custody of any officer or person, or who is confined pursuant to Section 4011.9, who escapes or attempts to escape from the county or city jail, prison, industrial farm, or industrial road camp or from the custody of the officer or person in charge of him or her while engaged in or going to or returning from the county work or from the custody of any officer or person in whose lawful custody he or she is, or from confinement pursuant to Section 4011.9, is guilty of a felony and, if the escape or attempt to escape was not by force or violence, is punishable by imprisonment in the state prison for 16 months, or two or three years to be served consecutively, or in the county jail not exceeding one year. However, if the escape or attempt to escape is by force or violence, the person is guilty of a felony and is punishable by imprisonment in the state prison for a full term of two, four, or six years to be consecutive to any other term of imprisonment, commencing from the time the person would otherwise have been released from imprisonment and the term shall not be subject to reduction pursuant to subdivision (a) of Section 1170.1, or in the county jail for a consecutive term not to exceed one year, that term to commence from the time the prisoner would otherwise have been discharged from the jail.

(c) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to any person who is convicted of a felony offense under this section in that he or she escaped or attempted to escape from a secure main jail facility, from a court building or while being transported between the court building and the jail facility. In any case in which a person is convicted of this offense designated as a misdemeanor, he or she shall be confined in the county jail for not less than 90 days nor more than one year except in unusual cases where the interests of justice would best be served by the granting of probation. For the purposes of this subdivision, "main jail facility" means the facility used for the detention of persons pending arraignment, after arraignment, during trial, and upon sentence or commitment. The facility shall not include an industrial farm, industrial road camp, work furlough facility, or any other nonsecure facility used primarily for sentenced prisoners. As used in this subdivision, "secure" means that the facility contains an outer perimeter characterized by the use of physically restricting construction, hardware, and procedures designed to eliminate ingress and egress from the facility except through a closely supervised gate or doorway.

If the court grants probation under this subdivision, it shall specify the reason or reasons for the order on the court record.

Any sentence imposed under this subdivision shall be served consecutive to any other sentence in effect or pending.

SEC. 3. Section 2 of this bill incorporates amendments to Section 4532 of the Penal Code proposed by both this bill and SB 151. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 4532 of the Penal Code, and (3) this bill is enacted after SB 151, in which case Section 1 of this bill shall not become operative.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1163

An act relating to tidelands and submerged lands granted by the state to the City of Long Beach, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. (a) Pursuant to Chapter 29 of the Statutes of 1956, First Extraordinary Session, the State Lands Commission has authorized the execution of a contract between a private contractor and the City of Long Beach known as the Long Beach Harbor Tidelands Parcel and Parcel "A" Oil Contract. This contract will expire by its terms within the next 10 years. The city and the contractor desire to amend the contract to provide for the implementation of a steamflood and cogeneration project for the Long Beach Harbor tidelands, and to provide for the replacement and consolidation of tank farms, electrification of facilities, the repair and replacement of pipelines, and the construction of a waste water treatment facility. It is necessary that the City of Long Beach be empowered immediately to extend the contract so that its term from inception to termination equals 35 years, so that these amendments and modifications will become economically feasible.

(b) As used in this act:

(1) "Commission" means the State Lands Commission.

(2) "City" means the City of Long Beach.

(3) "Contractor" means a person or entity contracting with the commission and the city pursuant to subdivision (a).

(4) "Chapter 29" means Chapter 29 of the Statutes of 1956, First Extraordinary Session.

(5) "Chapter 138" means Chapter 138 of the Statutes of 1964, First Extraordinary Session.

SEC. 2. Notwithstanding anything to the contrary in Chapter 29, Chapter 138, the Long Beach City Charter, or any law or ordinance of the city, the contract described in subdivision (a) of Section 1 of this act may be extended, with the approval of the commission, such that the total term of the contract, from inception to termination, does not exceed 35 years.

SEC. 3. The Legislature finds and declares that this act is necessary for the promotion of the public interest and is of statewide concern. To the extent that any provision of this act conflicts with Chapter 29, Chapter 138, the Long Beach City Charter, or any law or ordinance of the city, the provisions of this act shall prevail. No person or entity shall have liability to any other person or entity by reason of the preparation, execution, or delivery of any and all contracts provided for in this act. However, nothing in this act shall relieve any person or entity from liabilities imposed by those contracts or from operations conducted pursuant to those contracts.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to implement urgently needed capital improvements and an urgently needed steamflood and cogeneration project for the Long Beach tidelands at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1164

An act to add Section 49550.3 to the Education Code, relating to school meals, and making an appropriation therefor.

[Approved by Governor October 14, 1991 Filed with Secretary of State October 14, 1991.]

I am deleting the $500,000 appropriation from the General Fund contained in Section 3 of Assembly Bill No. 745.

This bill would establish a grant program to provide start-up costs to school districts for school breakfast programs.

It is more appropriate to consider funding the provisions of this bill during the annual budget process. At that time we can assess the State's fiscal situation, its projected revenues, the demands on the Proposition 98 guarantee of the General Fund and this bill's relative priority in relation to those demands.

With this deletion, I approve Assembly Bill No. 745.

PETE WILSON, Governor

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

SECTION 1. Section 49550.3 is added to the Education Code, to read:

49550.3. (a) The Legislature recognizes that the 1991–92 fiscal year budget reductions may result in more children coming to school hungry. Because a hungry child cannot learn, the Legislature intends, as a state nutrition and health policy, that the School Breakfast Program be made available in all schools where it is needed to provide adequate nutrition for children in attendance.

(b) The State Department of Education shall, in cooperation with school districts and county superintendents of education, provide information and limited financial assistance to encourage program startup and expansion into all qualified schools, as follows:

(1) Provide information to school districts and county superintendents of schools concerning the benefits and availability of the School Breakfast Program.

(2) Each year, provide additional information and financial assistance to schools in the state, selected on the following criteria:

(A) Forty percent or more of the school enrollment consists of children who have applied for free and reduced-price meals.

(B) The school does not currently participate in the School Breakfast Program.

(C) The school has not been awarded federal startup funds to initiate a school breakfast program.

(c) The department shall award grants of up to ten thousand dollars ($10,000) per schoolsite on a competitive basis to school districts and county superintendents of education, limited to a total of five hundred thousand dollars ($500,000) in the 1991–92 fiscal year, and limited to an amount subject to budget appropriations in each of the 1992–93, 1993–94, 1994–95, and 1995–96 fiscal years, for nonrecurring expenses incurred in initiating a school breakfast program under this section.

(d) Grants awarded under this section shall be used for nonrecurring costs of initiating a school breakfast program, including the acquisition of equipment, training of staff in new capacities, outreach efforts to publicize new school breakfast programs, and minor alterations to accommodate new equipment. Funds may not be used for salaries and benefits of staff, food, computers, capital outlay, or expansion of existing school breakfast programs.

(e) In making grant awards under this section in any fiscal year, the department shall give a preference to school districts and county superintendents of education that do all of the following:

(1) Submit to the department a plan to start school breakfast programs in the district or the county, including a description of the following:

(A) The manner in which the district or county will provide technical assistance and funding to schoolsites to expand those programs.

(B) Detailed information on the nonrecurring expenses needed to initiate a program.

(C) Public or private resources that have been assembled to carry out expansion of these programs during that year.

(2) Agree to operate the breakfast program established for a period of not less than three years.

(3) Assure that the expenditure of funds from state and local resources for the maintenance of the breakfast program shall not be diminished as a result of grant awards received under this section.

SEC. 1.5. During the 1991–92 fiscal year, the Superintendent of Public Instruction shall accomplish the following:

(a) Identify those schools in which 75 percent or more of the meals served to pupils are free or reduced-priced meals that do not receive reimbursement from the state or the federal government for a second meal.

(b) Provide local educational agencies in which those schools identified in subdivision (a) are located with the following information:

(1) The amount of federal and state reimbursement available to that local educational agency if a second meal is provided.

(2) The benefits of providing a breakfast to pupils.

(3) The options for providing the second meal within the reimbursement rate.

(c) Determine the number of those schools identified in subdivision (a) that will provide a second meal in the 1992–93 fiscal year.

SEC. 2. The Superintendent of Public Instruction shall report to the Legislature no later than October 1, 1992, on the number of schools identified in subdivision (a) of Section 1 of this act and the number of those schools that will be providing a second meal in the 1992–93 fiscal year.

SEC. 3. The sum of five hundred thousand dollars ($500,000) is hereby appropriated to the Superintendent of Public Instruction from the General Fund for the purpose of providing grants to school districts and county offices of education during the 1991–92 fiscal year pursuant to Section 49550.3 of the Education Code.

CHAPTER 1165

An act to amend Section 14085.5 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 14085.5 of the Welfare and Institutions Code is amended to read:

14085.5. (a) Each disproportionate share hospital contracting to provide services under this article or contracting with a county organized health system, and which has or would have met the state criteria developed pursuant to the federal Medicaid requirements regarding disproportionate hospitals for the three most recent years, may, in addition to the rate of payment provided for in the contract entered into under this article, receive supplemental reimbursement to the extent provided for in this section.

(b) (1) (A) A hospital qualifying pursuant to subdivision (a) shall submit documentation regarding debt service on revenue bonds used for financing the construction, renovation, or replacement of hospital facilities, including buildings and fixed equipment.

(B) Qualified hospitals may submit debt service instruments to the department and to the commission regarding debt issued for new capital projects.

(C) Eligible projects shall include those new capital projects funded by new debt for which final plans have been submitted to the Office of the State Architect and the Office of Statewide Health Planning and Development after September 1, 1988, and prior to June 30, 1994, except that projects submitted between September 1, 1988, and June 30, 1989, shall be eligible only if the submitting hospital had all of the following additional characteristics during the 1989 calendar year:

(i) No less than 400 general acute care licensed beds.

(ii) An average Medi-Cal patient census of not less than 30 percent of the total patient days.

(iii) No less than 50,000 emergency department visits.

(iv) An existing basic emergency department, obstetrical services, and a neonatal intensive care unit.

(D) The department shall confirm in writing hospital and project eligibility for partial financing under this section.

(E) Department advisory letters, conditioned on hospital and project conformity to plans, may be requested by hospitals prior to final plan submission.

(F) (1) Capital projects receiving partial financing under this section shall finance the upgrading or construction of buildings and

equipment to a level required by currently accepted medical practice standards, including projects designed to correct Joint Commission on Accreditation of Hospitals and Health Systems fire and life safety, seismic, or other related regulatory standards.

(2) Projects may also expand service capacity as needed to maintain current or reasonably foreseeable necessary bed capacity to meet the needs of Medi-Cal beneficiaries after giving consideration to bed capacity needed for other patients, including unsponsored patients.

(3) (A) Debt service shall only be paid for projects, or for that portion of projects, that are available and accessible to patients treated under this article or by successor programs.

(B) Each project shall cost at least five million dollars ($5,000,000) or, if less than five million dollars ($5,000,000), the project shall be necessary for retention of federal and state licensing and certification and for meeting fire and life safety, seismic, or other related regulatory standards.

(4) Supplemental reimbursement payments shall commence no later than 30 days after receipt of the certificate of occupancy by the hospital.

(5) (A) The state shall pledge to, and agree with, the holders of any revenue bonds issued to finance projects qualifying under this section that until debt service on the revenue bonds is fully paid, or until the supplemental rate is no longer required as provided by this section, the state will not limit or alter the rights vested in the hospital to receive supplemental reimbursement pursuant to this section.

(B) The state shall pledge, and the hospital shall, as a condition of encumbering supplemental reimbursement payments received pursuant to this section, pledge that supplemental reimbursement payments shall be used for the payment of debt service on the revenue bonds. The hospital shall include its pledge and the agreement with the state in any agreement with the holders of the revenue bonds.

(c) The hospital's supplemental reimbursement for a project qualifying pursuant to subdivisions (a) and (b) shall be calculated as follows:

(1) For any fiscal year for which the hospital is eligible to receive reimbursement, the hospital shall report to the department the amount of debt service on the revenue bonds issued to finance the project.

(2) The department shall use the Medicaid inpatient utilization rate as determined pursuant to Section 4112 of the Omnibus Budget Reconciliation Act of 1987 to determine the ratio of the hospital's total paid Medi-Cal patient days to total patient days.

(3) (A) (i) The supplemental Medi-Cal reimbursement to the hospital for each fiscal year shall equal the amount determined annually in paragraph (1) multiplied by the percentage figure determined in paragraph (2). In no instance shall the percentage

figure determined pursuant to the ratio derived under paragraph (2) be decreased by more than 10 percent of the initial ratio determined pursuant to paragraph (2) prior to the retirement of the debt.

(ii) Hospitals whose Medi-Cal ratio falls below 90 percent of the initial level established at the point of final plan submission shall at least maintain the volume of Medi-Cal utilization which was recorded at the time of final plan submission unless forces beyond the hospital's control have decreased the absolute volume of care.

(B) (i) In no instance shall the total amount of reimbursement received under this section combined with that received from all other sources dedicated exclusively to debt service exceed 100 percent of the debt service over the life of the loan.

(ii) A hospital qualifying for and receiving supplemental Medi-Cal reimbursement shall continue to receive the reimbursement until the qualifying loan is paid off, or the hospital is terminated as a Medi-Cal selective contractor and the hospital does not contract with a county organized health system.

(iii) It is the intent of the Legislature that the state and the qualifying hospital shall negotiate in good faith for rates sufficient to ensure continued hospital participation in the program and to ensure adequate access to services for Medi-Cal beneficiaries.

(iv) The state shall not terminate a contract with a qualified provider for the purpose of terminating the capital supplement.

(v) If negotiations fail to permit continuation of a contract of a hospital qualifying for the supplemental Medi-Cal reimbursement, the supplemental Medi-Cal reimbursement shall cease as of the date of discontinuance of the selective provider contract.

(4) In order to ensure provision of qualified supplemental payments to disproportionate share hospitals contracting with county organized health systems, the department shall make the qualified supplemental payments directly to these hospitals.

(5) Funding for these supplemental payments shall be separately appropriated as a line item in the Budget Act for each fiscal year for any project for which a request for payment is received after April 1 of each fiscal year. The department shall request a deficiency appropriation if funds for the payment are not appropriated in the Budget Act.

(6) The department shall provide the Department of Finance, the Legislative Analyst, and the Joint Legislative Budget Committee with its estimate of the budget year costs of the supplemental reimbursement program, on January 10 and May 15 of each year.

(7) (A) Paragraphs (1) to (4), inclusive, shall be incorporated into an amendment to any contract entered into by a hospital pursuant to this article.

(B) (i) Any contract amendment required by paragraph (A) shall include a payment methodology based on inpatient hospital services rendered to Medi-Cal patients, either on a per diem basis, a per-discharge basis, or any other federally permissible basis, and which is consistent with the hospital's Medi-Cal contract.

(ii) The payment methodology specified in clause (i) shall ensure that the hospital, on an annual basis, receives the amount of supplemental reimbursement calculated pursuant to paragraph (3), excluding only the federal portion of costs which have been determined by the federal government not to be allowable under Title XIX of the federal Social Security Act (Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code).

(iii) The payment methodology specified in clause (i) shall contain a retrospective adjustment mechanism to ensure that, regardless of the payment methodology, the department shall pay the hospital the full amount owed to the hospital for the year, as determined pursuant to this section.

(8) In negotiating contracts with hospitals receiving payments under this section, the commission shall take appropriate steps to ensure the duplicate payments are not made to the hospital for the debt service costs relating to the eligible project.

(d) All reimbursement received by a hospital pursuant to this section shall be placed in a special account, the funds in which shall be used exclusively for the payment of debt service on the revenue bonds issued to finance the project.

(e) If contracting under this section is superceded by other arrangements for payment of inpatient hospital services, the successor program shall include separate reimbursement, as determined pursuant to paragraph (3) of subdivision (c).

(f) (1) For purposes of this section, "revenue bonds" are defined as that term is defined in subdivision (c) of Section 15459 of the Government Code, and shall also include general obligation bonds issued by or on behalf of eligible hospitals for projects of more than five million dollars ($5,000,000).

(2) (A) The aggregate principal amount of general obligation bonds to be issued as revenue bonds under this subdivision for the anticipated allowable portion of projects shall not, in any fiscal year, exceed a statewide amount established in the Medi-Cal estimates submitted to the fiscal committees of the Legislature pursuant to Section 14100.5, or as otherwise statutorily determined by the Legislature.

(B) In preparing Medi-Cal estimates, the department shall consider, but need not include, all actual and anticipated projects.

(g) (1) The department shall promptly seek any necessary federal approvals for the implementation of this section, and, if necessary to obtain federal approval, the department may, for federal purposes, limit the program to those costs which are allowable expenditures under Title XIX of the federal Social Security Act (Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code), subject to paragraph (2).

(2) The department shall continue to be responsible for the reimbursement of eligible providers from state funds for the amount of supplemental reimbursement pursuant to paragraph (3) of

subdivision (c), excluding only the federal portion of costs which have been determined by the federal government not to be allowable under Title XIX of the federal Social Security Act.

(h) (1) A hospital receiving supplemental reimbursement pursuant to this section shall be liable for any reduced federal financial participation resulting from the implementation of this section.

(2) The department shall submit claims for federal financial participation for all elements of the supplemental reimbursements which are allowable expenditures under federal law.

(3) The department shall, on an annual basis, submit any necessary materials to the federal government to provide assurances that claims for federal financial participation will include only those expenditures which are allowable under federal law.

(4) (A) The department may require that hospitals receiving supplemental reimbursement submit data necessary for the department to determine the appropriate amounts to claim as expenditures qualifying for federal financial participation.

(B) Unless otherwise permitted by federal law, the total statewide payment under the selective provider contracting program, in the aggregate on an annual basis, shall not exceed an amount that would otherwise have been paid under the Medi-Cal program on a statewide basis for the same services, in the aggregate on an annual basis, if the contracting program were not implemented.

CHAPTER 1166

An act to amend Section 14085.5 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 14085.5 of the Welfare and Institutions Code is amended to read:

14085.5. (a) Each disproportionate share hospital contracting to provide services under this article or contracting with a county organized health system, and which has or would have met the state criteria developed pursuant to the federal medicaid requirements regarding disproportionate hospitals for the three most recent years, may, in addition to the rate of payment provided for in the contract entered into under this article, receive supplemental reimbursement to the extent provided for in this section.

(b) (1) (A) A hospital qualifying pursuant to subdivision (a) shall submit documentation regarding debt service on revenue bonds used for financing the construction, renovation, or

replacement of hospital facilities, including buildings and fixed equipment.

(B) Qualified hospitals may submit debt service instruments to the department and to the commission regarding debt issued for new capital projects.

(C) Eligible projects shall include those new capital projects funded by new debt for which final plans have been submitted to the Office of the State Architect and the Office of Statewide Health Planning and Development after September 1, 1988, and prior to June 30, 1994, except that projects submitted between September 1, 1988, and June 30, 1989, shall be eligible only if the submitting hospital had all of the following additional characteristics during the 1989 calendar year:

(i) No less than 400 general acute care licensed beds.

(ii) An average Medi-Cal patient census of not less than 30 percent of the total patient days.

(iii) No less than 50,000 emergency department visits.

(iv) An existing basic emergency department, obstetrical services, and a neonatal intensive care unit.

(D) The department shall confirm in writing hospital and project eligibility for partial financing under this section.

(E) Department advisory letters, conditioned on hospital and project conformity to plans, may be requested by hospitals prior to final plan submission.

(F) Capital projects receiving partial financing under this section shall finance the upgrading or construction of buildings and equipment to a level required by currently accepted medical practice standards, including projects designed to correct Joint Commission on Accreditation of Hospitals and Health Systems fire and life safety, seismic, or other related regulatory standards.

(2) Projects may also expand service capacity as needed to maintain current or reasonably foreseeable necessary bed capacity to meet the needs of Medi-Cal beneficiaries after giving consideration to bed capacity needed for other patients, including unsponsored patients.

(3) (A) Debt service shall only be paid for projects, or for that portion of projects, that are available and accessible to patients treated under this article or by successor programs.

(B) Each project shall cost at least five million dollars ($5,000,000) or, if less than five million dollars ($5,000,000), the project shall be necessary for retention of federal and state licensing and certification and for meeting fire and life safety, seismic, or other related regulatory standards.

(4) Supplemental reimbursement payments shall commence no later than 30 days after receipt of the certificate of occupancy by the hospital.

(5) (A) The state shall pledge to, and agree with, the holders of any revenue bonds issued to finance projects qualifying under this section that until debt service on the revenue bonds is fully paid, or

until the supplemental rate is no longer required as provided by this section, the state will not limit or alter the rights vested in the hospital to receive supplemental reimbursement pursuant to this section.

(B) The state shall pledge, and the hospital shall, as a condition of encumbering supplemental reimbursement payments received pursuant to this section, pledge that supplemental reimbursement payments shall be used for the payment of debt service on the revenue bonds. The hospital shall include its pledge and the agreement with the state in any agreement with the holders of the revenue bonds.

(c) The hospital's supplemental reimbursement for a project qualifying pursuant to subdivisions (a) and (b) shall be calculated as follows:

(1) For any fiscal year for which the hospital is eligible to receive reimbursement, the hospital shall report to the department the amount of debt service on the revenue bonds issued to finance the project.

(2) The department shall use the medicaid inpatient utilization rate as determined pursuant to Section 4112 of the Omnibus Budget Reconciliation Act of 1987 to determine the ratio of the hospital's total paid Medi-Cal patient days to total patient days.

(3) (A) (i) The supplemental Medi-Cal reimbursement to the hospital for each fiscal year shall equal the amount determined annually in paragraph (1) multiplied by the percentage figure determined in paragraph (2). In no instance shall the percentage figure determined pursuant to the ratio derived under paragraph (2) be decreased by more than 10 percent of the initial ratio determined pursuant to paragraph (2) prior to the retirement of the debt.

(ii) Hospitals whose Medi-Cal ratio falls below 90 percent of the initial level established at the point of final plan submission shall at least maintain the volume of Medi-Cal utilization which was recorded at the time of final plan submission unless forces beyond the hospital's control have decreased the absolute volume of care.

(B) (i) In no instance shall the total amount of reimbursement received under this section combined with that received from all other sources dedicated exclusively to debt service exceed 100 percent of the debt service over the life of the loan.

(ii) A hospital qualifying for and receiving supplemental Medi-Cal reimbursement shall continue to receive the reimbursement until the qualifying loan is paid off, or the hospital is terminated as a Medi-Cal selective contractor and the hospital does not contract with a county organized health system.

(iii) It is the intent of the Legislature that the state and the qualifying hospital shall negotiate in good faith for rates sufficient to ensure continued hospital participation in the program and to ensure adequate access to services for Medi-Cal beneficiaries.

(iv) The state shall not terminate a contract with a qualified provider for the purpose of terminating the capital supplement.

(v) If negotiations fail to permit continuation of a contract of a hospital qualifying for the supplemental Medi-Cal reimbursement, the supplemental Medi-Cal reimbursement shall cease as of the date of discontinuance of the selective provider contract.

(4) In order to ensure provision of qualified supplemental payments to disproportionate share hospitals contracting with county organized health systems, the department shall make the qualified supplemental payments directly to these hospitals.

(5) Funding for these supplemental payments shall be separately appropriated as a line item in the Budget Act for each fiscal year for any project for which a request for payment is received after April 1 of each fiscal year. The department shall request a deficiency appropriation if funds for the payment are not appropriated in the Budget Act.

(6) The department shall provide the Department of Finance, the Legislative Analyst, and the Joint Legislative Budget Committee with its estimate of the budget year costs of the supplemental reimbursement program, on January 10 and May 15 of each year.

(7) (A) Paragraphs (1) to (4), inclusive, shall be incorporated into an amendment to any contract entered into by a hospital pursuant to this article.

(B) (i) Any contract amendment required by paragraph (A) shall include a payment methodology based on inpatient hospital services rendered to Medi-Cal patients, either on a per diem basis, a per-discharge basis, or any other federally permissible basis, and which is consistent with the hospital's Medi-Cal contract.

(ii) The payment methodology specified in clause (i) shall ensure that the hospital, on an annual basis, receives the amount of supplemental reimbursement calculated pursuant to paragraph (3), excluding only the federal portion of costs which have been determined by the federal government not to be allowable under Title XIX of the federal Social Security Act (Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code).

(iii) The payment methodology specified in clause (i) shall contain a retrospective adjustment mechanism to ensure that, regardless of the payment methodology, the department shall pay the hospital the full amount owed to the hospital for the year, as determined pursuant to this section.

(8) In negotiating contracts with hospitals receiving payments under this section, the commission shall take appropriate steps to ensure the duplicate payments are not made to the hospital for the debt service costs relating to the eligible project.

(d) All reimbursement received by a hospital pursuant to this section shall be placed in a special account, the funds in which shall be used exclusively for the payment of debt service on the revenue bonds issued to finance the project.

(e) If contracting under this section is superseded by other arrangements for payment of inpatient hospital services, the

successor program shall include separate reimbursement, as determined pursuant to paragraph (3) of subdivision (c).

(f) (1) For purposes of this section, "revenue bonds" are defined as that term is defined in subdivision (c) of Section 15459 of the Government Code, and shall also include general obligation bonds issued by or on behalf of eligible hospitals for projects of more than five million dollars ($5,000,000).

(2) (A) The aggregate principal amount of general obligation bonds to be issued as revenue bonds under this subdivision for the anticipated allowable portion of projects shall not, in any fiscal year, exceed a statewide amount established in the Medi-Cal estimates submitted to the fiscal committees of the Legislature pursuant to Section 14100.5, or as otherwise statutorily determined by the Legislature.

(B) In preparing Medi-Cal estimates, the department shall consider, but need not include, all actual and anticipated projects.

(g) (1) The department shall promptly seek any necessary federal approvals for the implementation of this section, and, if necessary to obtain federal approval, the department may, for federal purposes, limit the program to those costs which are allowable expenditures under Title XIX of the federal Social Security Act (Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code), subject to paragraph (2).

(2) The department shall continue to be responsible for the reimbursement of eligible providers from state funds for the amount of supplemental reimbursement pursuant to paragraph (3) of subdivision (c), excluding only the federal portion of costs which have been determined by the federal government not to be allowable under Title XIX of the federal Social Security Act.

(h) (1) A hospital receiving supplemental reimbursement pursuant to this section shall be liable for any reduced federal financial participation resulting from the implementation of this section.

(2) The department shall submit claims for federal financial participation for all elements of the supplemental reimbursements which are allowable expenditures under federal law.

(3) The department shall, on an annual basis, submit any necessary materials to the federal government to provide assurances that claims for federal financial participation will include only those expenditures which are allowable under federal law.

(4) (A) The department may require that hospitals receiving supplemental reimbursement submit data necessary for the department to determine the appropriate amounts to claim as expenditures qualifying for federal financial participation.

(B) Unless otherwise permitted by federal law, the total statewide payment under the selective provider contracting program, in the aggregate on an annual basis, shall not exceed an amount that would otherwise have been paid under the Medi-Cal program on a statewide basis for the same services, in the aggregate on an annual

basis, if the contracting program were not implemented.

CHAPTER 1167

An act to add Section 2929.5 to the Civil Code, and to amend Section 564 of, and to add Sections 726.5 and 736 to, the Code of Civil Procedure, relating to real property.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 2929.5 is added to the Civil Code, to read:

2929.5. (a) A secured lender may enter and inspect the real property security for the purpose of determining the existence, location, nature, and magnitude of any past or present release or threatened release of any hazardous substance into, onto, beneath, or from the real property security on either of the following:

(1) Upon reasonable belief of the existence of a past or present release or threatened release of any hazardous substance into, onto, beneath, or from the real property security not previously disclosed in writing to the secured lender in conjunction with the making, renewal, or modification of a loan, extension of credit, guaranty, or other obligation involving the borrower.

(2) After the commencement of nonjudicial or judicial foreclosure proceedings against the real property security.

(b) The secured lender shall not abuse the right of entry and inspection or use it to harass the borrower or tenant of the property. Except in case of an emergency, when the borrower or tenant of the property has abandoned the premises, or if it is impracticable to do so, the secured lender shall give the borrower or tenant of the property reasonable notice of the secured lender's intent to enter, and enter only during the borrower's or tenant's normal business hours. Twenty-four hours' notice shall be presumed to be reasonable notice in the absence of evidence to the contrary.

(c) The secured lender shall reimburse the borrower for the cost of repair of any physical injury to the real property security caused by the entry and inspection.

(d) If a secured lender is refused the right of entry and inspection by the borrower or tenant of the property, or is otherwise unable to enter and inspect the property without a breach of the peace, the secured lender may, upon petition, obtain an order from a court of competent jurisdiction to exercise the secured lender's rights under subdivision (a), and that action shall not constitute an action within the meaning of subdivision (a) of Section 726 of the Code of Civil Procedure.

(e) For purposes of this section:

(1) "Borrower" means the trustor under a deed of trust, or a mortgagor under a mortgage, where the deed of trust or mortgage encumbers real property security and secures the performance of the trustor or mortgagor under a loan, extension of credit, guaranty, or other obligation. The term includes any successor-in-interest of the trustor or mortgagor to the real property security before the deed of trust or mortgage has been discharged, reconveyed, or foreclosed upon.

(2) "Hazardous substance" means (A) any "hazardous substance" as defined in subdivision (f) of Section 25281 of the Health and Safety Code as effective on January 1, 1991, or as subsequently amended, (B) any "waste" as defined in subdivision (d) of Section 13050 of the Water Code as effective on January 1, 1991, or as subsequently amended, or (C) petroleum, including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel, or any mixture thereof.

(3) "Real property security" means any real property and improvements, other than an individual unit of a common interest development, as defined in Section 1351, or real property consisting of one acre or less which contains 1 to 15 dwelling units.

(4) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including continuing migration, of hazardous substances into or through soil, surface water, or groundwater.

(5) "Secured lender" means the beneficiary under a deed of trust against the real property security, or the mortgagee under a mortgage against the real property security, and any successor-in-interest of the beneficiary or mortgagee to the deed of trust or mortgage.

SEC. 2. Section 564 of the Code of Civil Procedure is amended to read:

564. (a) A receiver may be appointed, in the manner provided in this chapter, by the court in which an action or proceeding is pending in any case in which the court is empowered by law to appoint a receiver.

(b) In superior court a receiver may be appointed by the court in which an action or proceeding is pending, or by a judge thereof, in the following cases:

(1) In an action by a vendor to vacate a fraudulent purchase of property, or by a creditor to subject any property or fund to the creditor's claim, or between partners or others jointly owning or interested in any property or fund, on the application of the plaintiff, or of any party whose right to or interest in the property or fund, or the proceeds thereof, is probable, and where it is shown that the property or fund is in danger of being lost, removed, or materially injured.

(2) In an action by a secured lender for the foreclosure of the deed of trust or mortgage and sale of the property upon which there is a

lien under a deed of trust or mortgage, where it appears that the property is in danger of being lost, removed, or materially injured, or that the condition of the deed of trust or mortgage has not been performed, and that the property is probably insufficient to discharge the deed of trust or mortgage debt.

(3) After judgment, to carry the judgment into effect.

(4) After judgment, to dispose of the property according to the judgment, or to preserve it during the pendency of an appeal, or pursuant to Title 9 (commencing with Section 680.010) (enforcement of judgments), or after sale of real property pursuant to a decree of foreclosure, during the redemption period, to collect, expend, and disburse rents as directed by the court or otherwise provided by law.

(5) In the cases when a corporation has been dissolved, or is insolvent, or in imminent danger of insolvency, or has forfeited its corporate rights.

(6) In an action of unlawful detainer.

(7) At the request of the Public Utilities Commission pursuant to Section 855 of the Public Utilities Code.

(8) In all other cases where receivers have heretofore been appointed by the usages of courts of equity.

(c) A receiver may be appointed, in the manner provided in this chapter, including, but not limited to, Section 566, by the superior court in an action brought by a secured lender to enforce the rights provided in Section 2929.5 of the Civil Code, to enable the secured lender to enter and inspect the real property security for the purpose of determining the existence, location, nature, and magnitude of any past or present release or threatened release of any hazardous substance into, onto, beneath, or from the real property security. The secured lender shall not abuse the right of entry and inspection or use it to harass the borrower or tenant of the property. Except in case of an emergency, when the borrower or tenant of the property has abandoned the premises, or if it is impracticable to do so, the secured lender shall give the borrower or tenant of the property reasonable notice of the secured lender's intent to enter and shall enter only during the borrower's or tenant's normal business hours. Twenty-four hours' notice shall be presumed to be reasonable notice in the absence of evidence to the contrary.

(d) Any action by a secured lender to appoint a receiver pursuant to this section shall not constitute an action within the meaning of subdivision (a) of Section 726.

(e) For purposes of this section:

(1) "Borrower" means the trustor under a deed of trust, or a mortgagor under a mortgage, where the deed of trust or mortgage encumbers real property security and secures the performance of the trustor or mortgagor under a loan, extension of credit, guaranty, or other obligation. The term includes any successor-in-interest of the trustor or mortgagor to the real property security before the deed of trust or mortgage has been discharged, reconveyed, or

foreclosed upon.

(2) "Hazardous substance" means (A) any "hazardous substance" as defined in subdivision (f) of Section 25281 of the Health and Safety Code as effective on January 1, 1991, or as subsequently amended, (B) any "waste" as defined in subdivision (d) of Section 13050 of the Water Code as effective on January 1, 1991, or as subsequently amended, or (C) petroleum, including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel, or any mixture thereof.

(3) "Real property security" means any real property and improvements, other than an individual unit of a common interest development, as defined in Section 1351 of the Civil Code, or real property consisting of one acre or less which contains 1 to 15 dwelling units.

(4) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including continuing migration, of hazardous substances into or through soil, surface water, or groundwater.

(5) "Secured lender" means the beneficiary under a deed of trust against the real property security, or the mortgagee under a mortgage against the real property security, and any successor-in-interest of the beneficiary or mortgagee to the deed of trust or mortgage.

SEC. 3. Section 726.5 is added to the Code of Civil Procedure, to read:

726.5. (a) Notwithstanding subdivision (a) of Section 726 or any other provision of law except subdivision (d) of this section, a secured lender may elect between the following where the real property security is environmentally impaired and the borrower's obligations to the secured lender are in default:

(1) (A) Waiver of its lien against (i) any parcel of real property security that is environmentally impaired or is an affected parcel, and (ii) all or any portion of the fixtures and personal property attached to the parcels; and

(B) Exercise of (i) the rights and remedies of an unsecured creditor, including reduction of its claim against the borrower to judgment, and (ii) any other rights and remedies permitted by law.

(2) Exercise of (i) the rights and remedies of a creditor secured by a deed of trust or mortgage and, if applicable, a lien against fixtures or personal property attached to the real property security, and (ii) any other rights and remedies permitted by law.

(b) Before the secured lender may waive its lien against any parcel of real property security pursuant to paragraph (1) of subdivision (a) on the basis of the environmental impairment contemplated by paragraph (3) of subdivision (e), (i) the secured lender shall provide written notice of the default to the borrower, and (ii) the value of the subject real property security shall be established and its environmentally impaired status shall be

confirmed by an order of a court of competent jurisdiction in an action brought by the secured lender against the borrower. The complaint for a valuation and confirmation action may include causes of action for a money judgment for all or part of the secured obligation in which case the waiver of the secured lender's liens under paragraph (1) of subdivision (a) shall result only if and when a final money judgment is obtained against the borrower.

(c) If a secured lender elects the rights and remedies permitted by paragraph (1) of subdivision (a) and the borrower's obligations are also secured by other real property security, fixtures, or personal property, the secured lender shall first foreclose against the additional collateral to the extent required by applicable law in which case the amount of the judgment of the secured lender pursuant to paragraph (1) of subdivision (a) shall be limited to the extent Section 580a or 580d, or subdivision (b) of Section 726 apply to the foreclosures of additional real property security. The borrower may waive or modify the foreclosure requirements of this subdivision provided that the waiver or modification is in writing and signed by the borrower after default.

(d) Subdivision (a) shall be inapplicable if all of the following are true:

(1) The release or threatened release was not knowingly or negligently caused or contributed to, or knowingly or willfully permitted or acquiesced to, by any of the following:

(A) The borrower or any related party.

(B) Any affiliate or agent of the borrower or any related party.

(2) In conjunction with the making, renewal, or modification of the loan, extension of credit, guaranty, or other obligation secured by the real property security, neither the borrower, any related party, nor any affiliate or agent of either the borrower or any related party had actual knowledge or notice of the release or threatened release, or if such a person had knowledge or notice of the release or threatened release, the borrower made written disclosure thereof to the secured lender after the secured lender's written request for information concerning the environmental condition of the real property security, or the secured lender otherwise obtained actual knowledge thereof, prior to the making, renewal, or modification of the obligation.

(e) For purposes of this section:

(1) "Affected parcel" means any portion of a parcel of real property security that is (A) contiguous to the environmentally impaired parcel, even if separated by roads, streets, utility easements, or railroad rights-of-way, (B) part of an approved or proposed subdivision within the meaning of Section 66424 of the Government Code, of which the environmentally impaired parcel is also a part, or (C) within 2,000 feet of the environmentally impaired parcel.

(2) "Borrower" means the trustor under a deed of trust, or a mortgagor under a mortgage, where the deed of trust or mortgage

encumbers real property security and secures the performance of the trustor or mortgagor under a loan, extension of credit, guaranty, or other obligation. The term includes any successor-in-interest of the trustor or mortgagor to the real property security before the deed of trust or mortgage has been discharged, reconveyed, or foreclosed upon.

(3) "Environmentally impaired" means that the estimated costs to clean up and remediate a past or present release or threatened release of any hazardous substance into, onto, beneath, or from the real property security, not disclosed in writing to, or otherwise actually known by, the secured lender prior to the making of the loan or extension of credit secured by the real property security, exceeds 25 percent of the higher of the aggregate fair market value of all security for the loan or extension of credit (A) at the time of the making of the loan or extension of credit, or (B) at the time of the discovery of the release or threatened release by the secured lender. For the purposes of this definition, the estimated cost to clean up and remediate the contamination caused by the release or threatened release shall include only those costs that would be incurred reasonably and in good faith, and fair market value shall be determined without giving consideration to the release or threatened release, and shall be exclusive of the amount of all liens and encumbrances against the security that are senior in priority to the lien of the secured lender. Notwithstanding the foregoing, the real property security for any loan or extension of credit secured by a single parcel of real property which is included in the National Priorities List pursuant to Section 9605 of Title 42 of the United States Code, or in any list published by the State Department of Health Services pursuant to subdivision (b) of Section 25356 of the Health and Safety Code, shall be deemed to be environmentally impaired.

(4) "Hazardous substance" means (A) any "hazardous substance" as defined in subdivision (f) of Section 25281 of the Health and Safety Code as effective on January 1, 1991, or as subsequently amended, (B) any "waste" as defined in subdivision (d) of Section 13050 of the Water Code as effective on January 1, 1991, or as subsequently amended, or (C) petroleum, including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel, or any mixture thereof.

(5) "Real property security" means any real property and improvements, other than an individual unit of a common interest development, as defined in Section 1351 of the Civil Code, or real property which contains only 1 to 15 dwelling units, which in either case (A) is solely used (i) for residential purposes, or (ii) if reasonably contemplated by the parties to the deed of trust or mortgage, for residential purposes as well as limited agricultural or commercial purposes incidental thereto, and (B) is the subject of an issued certificate of occupancy unless the dwelling is to be owned and occupied by the borrower.

(6) "Related party" means any person who shares an ownership

interest with the borrower in the real property security, or is a partner or joint venturer with the borrower in a partnership or joint venture, the business of which includes the acquisition, development, use, lease, or sale of the real property security.

(7) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including continuing migration, of hazardous substances into or through soil, surface water, or groundwater. The term does not include actions directly relating to the incorporation in a lawful manner of building materials into a permanent improvement to the real property security.

(8) "Secured lender" means the beneficiary under a deed of trust against the real property security, or the mortgagee under a mortgage against the real property security, and any successor-in-interest of the beneficiary or mortgagee to the deed of trust or mortgage.

(f) This section shall not be construed to invalidate or otherwise affect in any manner any rights or obligations arising under contract in connection with a loan or extension of credit, including, without limitation, provisions limiting recourse.

(g) This section shall only apply to loans, extensions of credit, guaranties, or other obligations secured by real property security made, renewed, or modified on or after January 1, 1992, and before January 1, 2000.

SEC. 4. Section 736 is added to the Code of Civil Procedure, to read:

736. (a) Notwithstanding any other provision of law, a secured lender may bring an action for breach of contract against a borrower for breach of any environmental provision made by the borrower relating to the real property security, for the recovery of damages, and for the enforcement of the environmental provision, and that action or failure to foreclose first against collateral shall not constitute an action within the meaning of subdivision (a) of Section 726, or constitute a money judgment for a deficiency or a deficiency judgment within the meaning of Section 580a, 580b, or 580d, or subdivision (b) of Section 726. No injunction for the enforcement of an environmental provision may be issued after (1) the obligation secured by the real property security has been fully satisfied, or (2) all of the borrower's rights, title, and interest in and to the real property security has been transferred in a bona fide transaction to an unaffiliated third party for fair value.

(b) The damages a secured lender may recover pursuant to subdivision (a) shall be limited to reimbursement or indemnification of the following:

(1) If not pursuant to an order of any federal, state, or local governmental agency relating to the cleanup, remediation, or other response action required by applicable law, those costs relating to a reasonable and good faith cleanup, remediation, or other response action concerning a release or threatened release of hazardous

substances which is anticipated by the environmental provision.

(2) If pursuant to an order of any federal, state, or local governmental agency relating to the cleanup, remediation, or other response action required by applicable law which is anticipated by the environmental provision, all amounts reasonably advanced in good faith by the secured lender in connection therewith, provided that the secured lender negotiated, or attempted to negotiate, in good faith to minimize the amounts it was required to advance under the order.

(3) Indemnification against all liabilities of the secured lender to any third party relating to the breach and not arising from acts, omissions, or other conduct which occur after the borrower is no longer an owner or operator of the real property security, and provided the secured lender is not responsible for the environmentally impaired condition of the real property security in accordance with the standards set forth in subdivision (d) of Section 726.5. For purposes of this paragraph, the term "owner or operator" means those persons described in Section 101(20)(A) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601, et seq.).

(4) Attorneys' fees and costs incurred by the secured lender relating to the breach.

The damages a secured lender may recover pursuant to subdivision (a) shall not include (i) any part of the principal amount or accrued interest of the secured obligation, except for any amounts advanced by the secured lender to cure or mitigate the breach of the environmental provision that are added to the principal amount, and contractual interest thereon, or (ii) amounts which relate to a release which was knowingly permitted, caused, or contributed to by the secured lender or any affiliate or agent of the secured lender.

(c) A secured lender may not recover damages against a borrower pursuant to subdivision (a) for amounts advanced or obligations incurred for the cleanup or other remediation of real property security, and related attorneys' fees and costs, if all of the following are true:

(1) The original principal amount of, or commitment for, the loan or other obligation secured by the real property security did not exceed two hundred thousand dollars ($200,000).

(2) In conjunction with the secured lender's acceptance of the environmental provision, the secured lender agreed in writing to accept the real property security on the basis of a completed environmental site assessment and other relevant information from the borrower.

(3) The borrower did not permit, cause, or contribute to the release or threatened release.

(4) The deed of trust or mortgage covering the real property security has not been discharged, reconveyed, or foreclosed upon.

(d) This section is not intended to establish, abrogate, modify, limit, or otherwise affect any cause of action other than that provided

by subdivision (a) that a secured lender may have against a borrower under an environmental provision.

(e) This section shall apply only to environmental provisions contracted in conjunction with loans, extensions of credit, guaranties, or other obligations made, renewed, or modified on or after January 1, 1992, and before January 1, 2000. Notwithstanding the foregoing, this section shall not be construed to validate, invalidate, or otherwise affect in any manner the rights and obligations of the parties to, or the enforcement of, environmental provisions contracted before January 1, 1992.

(f) For purposes of this section:

(1) "Borrower" means the trustor under a deed of trust, or a mortgagor under a mortgage, where the deed of trust or mortgage encumbers real property security and secures the performance of the trustor or mortgagor under a loan, extension of credit, guaranty, or other obligation. The term includes any successor-in-interest of the trustor or mortgagor to the real property security before the deed of trust or mortgage has been discharged, reconveyed, or foreclosed upon.

(2) "Environmental provision" means any written representation, warranty, indemnity, promise, or covenant relating to the existence, location, nature, use, generation, manufacture, storage, disposal, handling, or past, present, or future release or threatened release, of any hazardous substance into, onto, beneath, or from the real property security, or to past, present, or future compliance with any law relating thereto, made by a borrower in conjunction with the making, renewal, or modification of a loan, extension of credit, guaranty, or other obligation involving the borrower, whether or not the representation, warranty, indemnity, promise, or covenant is or was contained in or secured by the deed of trust or mortgage, and whether or not the deed of trust or mortgage has been discharged, reconveyed, or foreclosed upon.

(3) "Hazardous substance" means (A) any "hazardous substance" as defined in subdivision (f) of Section 25281 of the Health and Safety Code as effective on January 1, 1991, or as subsequently amended, (B) any "waste" as defined in subdivision (d) of Section 13050 of the Water Code as effective on January 1, 1991, or as subsequently amended, or (C) petroleum, including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel, or any mixture thereof.

(4) "Real property security" means any real property and improvements, other than an individual unit of a common interest development, as defined in Section 1351 of the Civil Code, or real property which contains only 1 to 15 dwelling units, which in either case (A) is solely used (i) for residential purposes, or (ii) if reasonably contemplated by the parties to the deed of trust or mortgage, for residential purposes as well as limited agricultural or commercial purposes incidental thereto, and (B) is the subject of an issued certificate of occupancy unless the dwelling is to be owned

and occupied by the borrower.

(5) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including continuing migration, of hazardous substances into or through soil, surface water, or groundwater. The term does not include actions directly relating to the incorporation in a lawful manner of building materials into a permanent improvement to the real property security.

(6) "Secured lender" means the beneficiary under a deed of trust against the real property security, or the mortgagee under a mortgage against the real property security, and any successor-in-interest of the beneficiary or mortgagee to the deed of trust or mortgage.

CHAPTER 1168

An act to add Section 89701.5 to, and to repeal Section 89012 of, the Education Code, to amend Sections 27361, 29550, and 76000 of the Government Code, to amend Section 1797.98a of the Health and Safety Code, to amend Sections 1462.3, 1463.001, and 1463.003 of, to add Section 1463.005 to, and to repeal Section 1205.1 of, the Penal Code, and to amend Sections 40522, 42007, and 42008 of the Vehicle Code, relating to fines and fees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 14, 1991 Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 89012 of the Education Code, as added by Chapter 189 of the Statutes of 1991, is repealed.

SEC. 2. Section 89701.5 is added to the Education Code, to read:

89701.5. Moneys in the State University Parking Revenue Fund received as parking fines and forfeitures shall be used exclusively for the development, enhancement, and operation of alternate methods of transportation programs for students and employees, for the mitigation of the impact of off-campus student and employee parking in university communities, and for the administration of the parking fines and forfeitures programs.

SEC. 2.5. Section 27361 of the Government Code, as amended by Chapter 331 of the Statutes of 1991 is amended to read:

27361. The fee for recording and indexing every instrument, paper, or notice required or permitted by law to be recorded is as follows:

(a) Four dollars ($4) for recording the first page and three dollars ($3) for each additional page or fraction of a page.

(b) One dollar ($1) of each three dollar ($3) fee for each

additional page shall be transmitted by the county auditor monthly to the Controller and deposited in the General Fund.

(c) If the printing on printed forms is spaced more than nine lines per vertical inch or more than 22 characters and spaces per inch measured horizontally for not less than three inches in one sentence the recorder shall charge one dollar ($1) additional for each page on which the printing appears excepting, however, the additional charge shall not apply to printed words which are directive or explanatory in nature for completion of the form or on vital statistics forms.

One dollar ($1) for recording the first page and one dollar ($1) for each additional page or fraction of a page shall be available solely to support, maintain, improve, and provide for the full operation for modernized creation, retention, and retrieval of information in each county's system of recorded documents.

SEC. 3. Section 29550 of the Government Code, as amended by Chapter 331 of the Statutes of 1991, is amended to read:

29550. (a) Notwithstanding any other provision of law, a county may impose a fee upon a city, special district, school district, community college district, college, or university for reimbursement of county expenses incurred with respect to the booking or other processing of persons arrested by an employee of that city, special district, school district, community college district, college, or university, where the arrested persons are brought to the county jail for booking or detention. The fee imposed by a county pursuant to this section shall not exceed the actual administrative costs, including applicable overhead costs as permitted by federal Circular A-87 standards, incurred in booking or otherwise processing arrested persons. A county may submit an invoice to a city, special district, school district, community college district, college, or university for these expenses incurred by the county on and after July 1, 1990.

(b) Any county whose officer or agent arrests a person is entitled to recover from the arrested person a criminal justice administration fee for administrative costs it incurs in conjunction with the arrest if the person is convicted of any criminal offense related to the arrest. The fee which the county is entitled to recover pursuant to this subdivision shall not exceed the actual administrative costs, including applicable overhead costs as permitted by federal Circular A-87 standards, incurred in booking or otherwise processing arrested persons. A judgment of conviction may contain an order for payment of the amount of the criminal justice administration fee by the convicted person, and execution may be issued on the order in the same manner as a judgment in a civil action, but the order shall not be enforceable by contempt. The court may, as a condition of probation, order the convicted person to reimburse the county for the criminal justice administration fee.

(c) An administrative screening fee of twenty-five dollars ($25) shall be collected from each person arrested and released on his or her own recognizance upon conviction of any criminal offense

related to the arrest other than an infraction. A citation processing fee in the amount of ten dollars ($10) shall be collected from each person cited and released by any peace officer in the field or at a jail facility upon conviction of any criminal offense, other than an infraction, related to the criminal offense cited in the notice to appear. However, the court may determine a lesser fee than otherwise provided in this subdivision upon a showing that the defendant is unable to pay the full amount. All fees collected pursuant to this subdivision shall be transmitted by the county auditor monthly to the Controller for deposit in the General Fund. This subdivision applies only to convictions occurring on or after the effective date of the act adding this subdivision and prior to June 30, 1996.

SEC. 4. Section 76000 of the Government Code, as amended by Chapter 331 of the Statutes of 1991, is amended to read:

76000. (a) In each county there shall be levied an additional penalty of seven dollars ($7) for every ten dollars ($10) or fraction thereof which shall be collected together with and in the same manner as the amounts established by Section 1464 of the Penal Code, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except parking offenses subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code. These moneys shall be taken from fines and forfeitures deposited with the county treasurer prior to any division pursuant to Section 1463 of the Penal Code.

The county treasurer shall deposit those amounts specified by the board of supervisors by resolution in one or more of the funds established pursuant to this chapter. However, deposits to these funds shall continue through whatever period of time is necessary to repay any borrowings made by the county on or before January 1, 1991, to pay for construction provided for in this chapter.

(b) In each authorized county, provided that the board of supervisors has adopted a resolution stating that the implementation of this subdivision is necessary to the county for the purposes authorized, with respect to each authorized fund established pursuant to Section 76100 or 76101, for every parking offense where a parking penalty, fine, or forfeiture is imposed, an added penalty of two dollars and fifty cents ($2.50) shall be included in the total penalty, fine, or forfeiture. Except as provided in subdivision (c), for each parking case collected in the courts of the county, the county treasurer shall place in each authorized fund two dollars and fifty cents ($2.50). These moneys shall be taken from fines and forfeitures deposited with the county treasurer prior to any division pursuant to Section 1462.3 or 1463.009 of the Penal Code. The judges of the county shall increase the bail schedule amounts as appropriate to reflect the added penalty provided for by this section. In those cities, districts, or other issuing agencies which elect to accept parking

penalties, and otherwise process parking violations pursuant to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code, that city, district, or issuing agency shall observe the increased bail amounts as established by the court reflecting the added penalty provided for by this section. Each agency which elects to process parking violations shall pay to the county treasurer two dollars and fifty cents ($2.50) for each fund for each parking penalty collected on each violation which is not filed in court. Those payments to the county treasurer shall be made monthly, and the county treasurer shall deposit all those sums in the authorized fund. No issuing agency shall be required to contribute revenues to any fund in excess of those revenues generated from the surcharges established in the resolution adopted pursuant to this chapter, except as otherwise agreed upon by the local governmental entities involved.

(c) The county treasurer shall transfer to the Controller one dollar ($1) of every two dollars and fifty cents ($2.50) deposited pursuant to subdivision (b). The Controller shall deposit these moneys which are received by him or her prior to January 1, 1997, in the General Fund. The Controller shall deposit these moneys which are received by him or her on or after January 1, 1997, in the State Courthouse Construction Fund.

SEC. 4.5. Section 1797.98a of the Health and Safety Code is amended to read:

1797.98a. Each county may establish an Emergency Medical Services Fund, upon adoption of a resolution by the board of supervisors. The money in the fund shall be available for the reimbursements required by this chapter. The fund shall be administered by each county, except that a county electing to have the state administer its medically indigent services program may also elect to have its Emergency Medical Services Fund administered by the state. The costs of administering the fund shall be reimbursed by the fund, up to 10 percent of the amount of the fund. The fund shall be utilized to reimburse physicians and surgeons and hospitals for patients who do not make payment for emergency medical services and for other emergency medical services purposes as determined by each county. Fifty-eight percent of the money in the fund shall be distributed to physicians and surgeons for emergency services provided by all physicians and surgeons, except those physicians and surgeons employed by county hospitals, in general acute care hospitals that provide basic or comprehensive emergency services up to the time the patient is stabilized, 25 percent of the fund shall be distributed only to hospitals providing disproportionate trauma and emergency medical care services, and 17 percent of the fund shall be distributed for other emergency medical services purposes as determined by each county. However, in any county that has neither practicing physicians nor hospitals, any balance set aside for physicians, surgeons, or hospitals at the end of the fiscal year may be utilized to fund other emergency services. The source of the money

in the fund shall be the additional penalty made for this purpose, as provided in Section 76000 of the Government Code.

SEC. 4.7. Section 1205.1 of the Penal Code, as amended by Chapter 189 of the Statutes of 1991, is repealed.

SEC. 5. Section 1462.3 of the Penal Code, as added by Chapter 189 of the Statutes of 1991, is amended to read:

1462.3. Notwithstanding any other provision of law, a municipal or justice court shall authorize the following entities upon request to receive, deposit, accept forfeiture, and otherwise process the posting of bail for state and local parking violations issued by an employee or agent of the California State University, the University of California, the California Department of Parks and Recreation, the California State Police, the California Exposition and State Fair, the Department of Forestry and Fire Protection or any jurisdiction that provides fire protection for the department by contract, a community college district, a regional park district, a park and recreation district, a municipal utility district, a police protection district, a community service district, a transit district, a school district, a port district, a harbor district, a metropolitan development board, a fire protection district, a bridge and highway district, or a housing authority. Any entity which maintains an administrative appeals process for the review of all contested violations it has issued shall transfer, once a month, an amount equal to 5 percent of the amounts deposited directly with the entity, to the general fund of the county. Any entity which does not maintain an administrative appeals process for the review of all contested violations it has issued shall transfer, once a month, an amount equal to 15 percent of the amounts deposited directly with the entity, to the general fund of the county.

Where such an entity and a municipal or justice court have, prior to June 1, 1991, entered into an agreement governing the distribution of revenue from parking penalties, those agreements shall remain in full force and effect until changed by mutual agreement.

If the authorization is sought by the California State University or any campus thereof to receive, deposit, accept forfeiture, and otherwise process the posting of bail for state and local parking violations issued by their employee or agent, all parking fines and forfeitures collected pursuant to this section by or on behalf of the California State University or any campus thereof shall be deposited, once a month, to the State Treasury to the credit of the State University Parking Revenue Fund.

If authorization is not sought by an entity whose employees issue written notices of state and local parking violations, out of the moneys deposited with the county treasurer from the court's receipt, deposit, acceptance of forfeiture, and other processing of bail, 25 percent shall be transferred, once a month, to the General Fund of the state, with respect to state agencies, or to the general fund of the local entity with respect to a local entity issuing the written notice, or to the State Treasury to the credit of the State University Parking

Revenue Fund with respect to the California State University, and the remainder shall be transferred to the county general fund. A municipal or justice court and an entity listed above may adjust the percentage herein by mutual agreement.

SEC. 6. Section 1463.001 of the Penal Code, as added by Chapter 189 of the Statutes of 1991, is amended to read:

1463.001. All fines and forfeitures imposed and collected for crimes other than parking offenses resulting from a filing in a court shall as soon as practicable after receipt thereof, be deposited with the county treasurer, and each month the total fines and forfeitures which have accumulated within the past month shall be distributed, as follows:

(a) The state penalties, county penalties, special penalties, service charges, and penalty allocations shall be transferred to the proper funds as required by law.

(b) The base fines shall be distributed, as follows:

(1) Any base fines which are subject to specific distribution under any other section shall first be distributed to the specified funds of the state or local agency. Any amount due to the county, including amounts collected pursuant to Section 1203.1, but excluding fees to cover the actual cost of formal probation, shall be divided between the state and county, with 75 percent transferred to the General Fund and 25 percent transferred to the proper funds of the county, subject to the limitations established by Section 1463.003. Any amount due to cities shall be divided between each city and the state, with 50 percent deposited to the General Fund, and 50 percent deposited to the treasury of the appropriate city, subject to the limitations established by Section 1463.003.

(2) Of base fines resulting from county arrest not included in paragraph (1), 25 percent shall be transferred into the proper funds of the county, subject to the limitations established by Section 1463.003, and 75 percent shall be transferred to the General Fund.

(3) Of base fines resulting from city arrests not included in paragraph (1), an amount equal to the applicable county percentages set forth in Section 1463.002, as modified by Section 1463.28, shall be divided between the state and county, with 75 percent transferred to the General Fund and 25 percent transferred into the proper funds of the county, subject to the limitations established by Section 1463.003. The remainder of base fines resulting from city arrests shall be divided between each city and the state, with 50 percent deposited to the General Fund, and 50 percent deposited to the treasury of the appropriate city, subject to the limitations established by Section 1463.003.

(c) The distribution specified in subdivision (b) applies to all funds subject thereto distributed on or after July 1, 1991, regardless of whether the court has elected to allocate and distribute funds pursuant to Section 1464.8.

SEC. 7. Section 1463.003 of the Penal Code, as added by Chapter 189 of the Statutes of 1991, is amended to read:

1463.003. The maximum amount of the fines and forfeitures which may be retained in the 1991–92 fiscal year by a county under this chapter shall be calculated by computing the amount of fines and forfeitures retained by the county in the 1990–91 fiscal year, plus an amount equal to 5 percent. All moneys in excess of 25 percent of that total amount shall be transferred on a monthly basis to the General Fund.

With respect to any city in existence on July 1, 1990, the maximum amount of the fines and forfeitures which may be retained in the 1991–92 fiscal year by a city under this chapter shall be calculated by computing the amount of nonparking fines and forfeitures retained by the city in the 1990–91 fiscal year plus an amount equal to 5 percent. All moneys in excess of 50 percent of that total amount shall be transferred on a monthly basis to the General Fund.

SEC. 7.5. Section 1463.005 is added to the Penal Code, to read:

1463.005. Notwithstanding Section 1463.001, in a county subject to Section 77202.5 of the Government Code, of base fines resulting from arrests not subject to allocation under paragraph (1) of subdivision (b) of Section 1463.001, by a California Highway Patrol Officer on state highways constructed as freeways within the city whereon city police officers enforced the provisions of the Vehicle Code on April 1, 1965, 25 percent shall be deposited in the treasury of the appropriate city, 12.5 percent shall be deposited in the proper funds of the county, and the remainder shall be deposited in the General Fund.

SEC. 8. Section 40522 of the Vehicle Code is amended to read:

40522. Whenever a person is arrested for violations specified in Section 40303.5, except a violation of subdivision (a) of Section 5204, and none of the disqualifying conditions set forth in subdivision (b) of Section 40610 exist, and the officer issues a notice to appear, the notice shall specify the offense charged and note in a form approved by the Judicial Council that the charge shall be dismissed on proof of correction. If the arrested person presents, by mail or in person, proof of correction, as prescribed in Section 40616, on or before the date on which the person promised to appear, the court shall dismiss the violation or violations charged pursuant to Section 40303.5.

SEC. 9. Section 42007 of the Vehicle Code, as amended by Chapter 189 of the Statutes of 1991, is amended to read:

42007. (a) The clerk of the court shall collect a fee from every person who is ordered or permitted to attend a traffic violator school pursuant to Section 42005 or who attends any other court-supervised program of traffic safety instruction. The fee shall be in an amount equal to the total bail set forth for the eligible offense on the uniform countywide bail schedule. As used in this subdivision, "total bail" means the amount established pursuant to Section 1269b of the Penal Code in accordance with the Uniform Statewide Bail Schedule adopted by the Judicial Council, including all assessments, surcharges, and penalty amounts. Where multiple offenses are charged in a single notice to appear, the "total bail" is the amount

applicable for the greater of the qualifying offenses. However, the court may determine a lesser fee under this subdivision upon a showing that the defendant is unable to pay the full amount.

The fee shall not include the cost, or any part thereof, of traffic safety instruction offered by the school or other program.

(b) Revenues derived from the fee collected under this section shall be deposited in accordance with Section 68084 of the Government Code and allocated monthly as follows:

(1) Seventy-seven percent of the amount shall be deposited in the General Fund, except that effective January 1, 1992, 14 percent of the moneys transmitted under this paragraph shall be deposited in the State Courthouse Construction Fund.

(2) The remaining amount collected under subdivision (a) shall be deposited in the general fund of the county, provided that in any county in which a fund is established pursuant to Section 76100 or 76101 of the Government Code, the sum of one dollar ($1) for each fund so established shall be deposited with the county treasurer and placed in that fund.

(c) As used in this section, "court-supervised program" includes, but is not limited to, any program of traffic safety instruction the successful completion of which is accepted by the court in lieu of adjudicating a violation of this code.

(d) The Judicial Council shall study the minimum eligibility criteria governing drivers seeking to attend traffic violator's school, and report to the Legislature on the advisability of uniform statewide criteria on or before January 1, 1993.

(e) The clerk of the court, in a county that offers traffic school shall include in any courtesy notice mailed to a defendant for an offense that qualifies for traffic school attendance the following statement:

NOTICE: If you are eligible and decide not to attend traffic school your automobile insurance may be adversely affected.

SEC. 10. Section 42008 of the Vehicle Code, as amended by Chapter 189 of the Statutes of 1991, is amended to read:

42008. (a) A state amnesty program for delinquent fines and bail imposed for an infraction or misdemeanor violation of the Vehicle Code, except parking violations of the Vehicle Code and violations of Section 23103, 23104, 23152, or 23153, shall operate during the period of February 1, 1992, through April 30, 1992. The program shall be implemented by the courts in accordance with Judicial Council guidelines, and shall apply to infraction or misdemeanor violations of the Vehicle Code, except parking violations, upon which a fine or bail was delinquent on or before April 1, 1991.

(b) Under the amnesty program, any person owing a fine or bail due on or before April 1, 1991, that was imposed for an infraction or misdemeanor violation of the Vehicle Code, except violations of Section 23103, 23104, 23152, or 23153 or parking violations, may pay to the municipal or justice court the amount scheduled by the court, which shall be either (1) 70 percent of the total fine or bail or (2)

the amount of one hundred dollars ($100) for an infraction or five hundred dollars ($500) for a misdemeanor. This amount shall be accepted by the court in full satisfaction of the delinquent fine or bail.

(c) No criminal action shall be brought against any person for a delinquent fine or bail paid under this amnesty program and no other additional penalties shall be assessed for the late payment of the fine or bail made under the amnesty program.

(d) Notwithstanding Section 1463, the total amount of funds collected by the courts pursuant to the amnesty program created by this section shall be deposited in the county treasury and transferred to the General Fund once each month.

(e) Except as expressly provided in this section, there shall be no amnesty programs with respect to fines or forfeitures for infractions and misdemeanor violations of the Vehicle Code. However, this section does not preempt local amnesty programs with respect to parking offenses and which commence on or after July 1, 1992.

SEC. 11. The increased parking penalty or bail amounts required by subdivision (b) of Section 76000 of the Government Code shall be implemented by local agencies as soon as feasible. However, local entities shall not be responsible for additional amounts which could not reasonably have been imposed prior to November 30, 1991.

SEC. 12. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure without delay the proper distribution of fees and fines to the state, counties, and cities, it is necessary that this act take effect immediately.

CHAPTER 1169

An act to amend Sections 1797.98a, 1797.98c, and 1797.98e of, and to add Section 1797.98g to, the Health and Safety Code, and to add Section 16959 to the Welfare and Institutions Code, relating to emergency medical services.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 1797.98a of the Health and Safety Code is amended to read:

1797.98a. Each county may establish an Emergency Medical Services Fund, upon adoption of a resolution by the board of supervisors. The money in the fund shall be available for the reimbursements required by this chapter. The fund shall be

administered by each county, except that a county electing to have the state administer its medically indigent services program may also elect to have its Emergency Medical Services Fund administered by the state. Costs of administering the fund shall be reimbursed by the fund, up to 10 percent of the amount of the fund. All interest earned on moneys in the fund shall be deposited in the fund for disbursement as specified in this section. The fund shall be utilized to reimburse physicians and surgeons and hospitals for patients who do not make payment for emergency medical services and for other emergency medical services purposes as determined by each county. Fifty-eight percent of the balance of the money in the fund after costs of administration shall be distributed to physicians and surgeons for emergency services provided by all physicians and surgeons, except those physicians and surgeons employed by county hospitals, in general acute care hospitals that provide basic or comprehensive emergency services up to the time the patient is stabilized, 25 percent of the balance of the fund after costs of administration shall be distributed only to hospitals providing disproportionate trauma and emergency medical care services, and 17 percent of the balance of the fund after costs of administration shall be distributed for other emergency medical services purposes as determined by each county. The source of the money in the fund shall be the penalty assessment made for this purpose, as provided in Section 1465 of the Penal Code.

SEC. 2. Section 1797.98c of the Health and Safety Code is amended to read:

1797.98c. (a) Physicians and surgeons wishing to be reimbursed shall submit their losses incurred due to patients who do not make any payment for services and for whom no responsible third party makes any payment. No physicians and surgeons shall be reimbursed greater than 50 percent of those losses.

(b) If, after receiving payment from the fund, a physician and surgeon is reimbursed by a patient or a responsible third party, the physician and surgeon shall do one of the following:

(1) Notify the administering agency, and, after notification, the administering agency shall reduce the physician and surgeon's future payment of claims from the fund. In the event there is not a subsequent submission of a claim for reimbursement within one year, the physician and surgeon shall reimburse the fund in an amount equal to the amount collected from the patient or third-party payer, but not more than the amount of reimbursement received from the fund.

(2) Notify the administering agency of the payment and reimburse the fund in an amount equal to the amount collected from the patient or third-party payer, but not more than the amount of the reimbursement received from the fund for that patient's care.

(c) Reimbursement for losses incurred by any physician and surgeon shall be limited to services provided to a patient who cannot afford to pay for those services, and for whom payment will not be made through any private coverage or by any program funded in

whole or in part by the federal government, and where all of the following conditions have been met:

(1) The physician and surgeon has inquired if there is a responsible third-party source of payment.

(2) The physician and surgeon has billed for payment of services.

(3) Either of the following:

(A) A period of not less than three months has passed from the date the physician and surgeon billed the patient or responsible third party, during which time the physician and surgeon has made reasonable efforts to obtain reimbursement and has not received reimbursement for any portion of the amount billed.

(B) The physician and surgeon has received actual notification from the patient or responsible third party that no payment will be made for the services rendered by the physician and surgeon.

(4) The physician and surgeon has stopped any current, and waives any future, collection efforts to obtain reimbursement from the patient, upon receipt of funds from the fund.

(d) A listing of patient names shall accompany a physician and surgeon's submission, and those names shall be given full confidentiality protections by the administering agency.

(e) Notwithstanding any other restriction on reimbursement, a county may adopt a fee schedule to establish a uniform reasonable level of reimbursement from the county's emergency medical services fund for reimbursable services.

(f) For the purposes of submission and reimbursement of physician and surgeon claims, the administering agency shall adopt and use the current version of the Physicians' Current Procedural Terminology, published by the American Medical Association, or a similar procedural terminology reference.

SEC. 3. Section 1797.98e of the Health and Safety Code is amended to read:

1797.98e. (a) It is the intent of the Legislature that a simplified, cost-efficient system of administration of this chapter be developed so that the maximum amount of funds may be utilized to reimburse physicians and surgeons and for other emergency medical services purposes. The administering agency shall select an administering officer and shall establish procedures and time schedules for the submission and processing of proposed reimbursement requests submitted by physicians and surgeons. The schedule shall provide for disbursements of moneys in the Emergency Medical Services Fund on at least an annual basis to applicants who have submitted accurate and complete data for payment by a date to be established by the administering agency. When the administering agency determines that claims for payment for physician and surgeon services are of sufficient numbers and amounts, that if paid, the claims would exceed the total amount of funds available for payment, the administering agency shall fairly prorate, without preference, payments to each claimant at a level less than the maximum payment level. Each administering agency may encumber sufficient funds

during one fiscal year to reimburse claimants for losses incurred during that fiscal year for which claims will not be received until after the fiscal year. The administering agency may, as necessary, request records and documentation to support the amounts of reimbursement requested by physicians and surgeons and the administering agency may review and audit such records for accuracy. Reimbursements requested and reimbursements made that are not supported by records may be denied to and recouped from physicians and surgeons. Physicians and surgeons found to submit requests for reimbursement that are inaccurate or unsupported by records may be excluded from submitting future requests for reimbursement. The administering officer shall not give preferential treatment to any facility, physician and surgeon, or category of physician and surgeon and shall not engage in practices that constitute a conflict of interest by favoring a facility or physician and surgeon with which the administering officer has an operational or financial relationship. A hospital administrator of a hospital owned or operated by a county of a population of 250,000 or more as of January 1, 1991, or a person under the direct supervision of such a person, shall not be the administering officer. The board of supervisors of a county or any other county agency may serve as the administering officer.

(b) Each provider of health services which receives payment under this chapter shall keep and maintain records of the services rendered, the person to whom rendered, the date, and any additional information the administering agency may, by regulation, require, for a period of three years from the date the service was provided. The administering agency shall not require any additional information from a physician and surgeon providing emergency medical services that is not available in the patient record maintained by the entity listed in subdivision (f) where the medical services are provided, nor shall the administering agency require a physician and surgeon to make eligibility determinations.

(c) During normal working hours, the administering agency may make any inspection and examination of a hospital's or physician and surgeon's books and records needed to carry out the provisions of this chapter. A provider who has knowingly submitted a false request for reimbursement shall be guilty of civil fraud.

(d) Nothing in this chapter shall prevent a physician and surgeon from utilizing an agent who furnishes billing and collection services to the physician and surgeon to submit claims or receive payment for claims.

(e) All payments from the fund pursuant to Section 1797.98c to physicians and surgeons shall be limited to physicians and surgeons who, in person, provide onsite services in a clinical setting, including, but not limited to, radiology and pathology settings.

(f) All payments from the fund shall be limited to claims for care rendered by physicians and surgeons to patients who are initially medically screened, evaluated, treated, or stabilized in any of the

following:

(1) A basic or comprehensive emergency department of a licensed general acute care hospital.

(2) A site that was approved by a county prior to January 1, 1990, as a paramedic receiving station for the treatment of emergency patients.

(3) A standby emergency department that was in existence on January 1, 1989, in a hospital specified in Section 1188.855.

(g) Payments shall be made only for emergency services provided on the calendar day on which emergency medical services are first provided and on the immediately following two calendar days, however, payments may not be made for services provided beyond a 48-hour period of continuous service to the patient.

(h) Notwithstanding subdivision (g), if it is necessary to transfer the patient to a second facility providing a higher level of care for the treatment of the emergency condition, reimbursement shall be available for services provided at the facility to which the patient was transferred on the calendar day of transfer and on the immediately following two calendar days, however, payments may not be made for services provided beyond a 48-hour period of continuous service to the patient.

(i) Payment shall be made for medical screening examinations required by law to determine whether an emergency condition exists, notwithstanding the determination after the examination that a medical emergency does not exist. Payment shall not be denied solely because a patient was not admitted to an acute care facility. Payment shall be made for services to an inpatient only when the inpatient has been admitted to a hospital from an entity specified in subdivision (f).

(j) The administering agency shall compile a quarterly and year-end summary of reimbursements paid to facilities and physicians and surgeons. The summary shall include, but shall not be limited to, the total number of claims submitted by physicians and surgeons in aggregate from each facility and the amount paid to each physician and surgeon. The administering agency shall provide copies of the summary and forms and instructions relating to making claims for reimbursement to the public, and may charge a fee not to exceed the reasonable costs of duplication.

(k) Each county shall establish an equitable and efficient mechanism for resolving disputes relating to claims for reimbursements from the fund. The mechanism shall include a requirement that disputes be submitted either to binding arbitration conducted pursuant to arbitration procedures set forth in Chapter 3 (commencing with Section 1282) and Chapter 4 (commencing with Section 1285) of Part 3 of Title 9 of the Code of Civil Procedure, or to a local medical society for resolution by neutral parties.

SEC. 4. Section 1797.98g is added to the Health and Safety Code, to read:

1797.98g. The moneys contained in an Emergency Medical

Services Fund, other than moneys contained in a Physician Services Account within the fund pursuant to Section 16952 of the Welfare and Institutions Code, shall not be subject to Article 3.5 (commencing with Section 16951) of Chapter 5 of Part 4.7 of Division 9 of the Welfare and Institutions Code.

SEC. 5. Section 16959 is added to the Welfare and Institutions Code, to read:

16959. The moneys contained in a Physician Services Account within an Emergency Medical Services Fund shall not be subject to Chapter 2.5 (commencing with Section 1797.98a) of Division 2.5 of the Health and Safety Code.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

Moreover, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Also, notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1170

An act to amend Sections 1189.101, 1189.109, 1797.98e, 24165.3, 24165.5, and 24169.8 of, and to add Section 24168.05 to, the Health and Safety Code, to amend Sections 14148.5, 14148.95, 14148.96, 16901, 16905, 16915, 16916, 16917, 16918, 16934, 16934.5, 16936, 16938, 16941.1, 16942, 16943, 16945, 16946, 16952, 16953, 16954, 16970, 16980, 16981, 16990, and 16995.2 of, to amend and renumber Sections 14148.97 and 14149.7 of, to add Section 14148.98 to, and to repeal Section 16953.5 of, the Welfare and Institutions Code, and to amend Sections 27, 28, 29, and 41 of, and to repeal Sections 34 and 36 of, Chapter 278 of the Statutes of 1991, relating to public social services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 1189.101 of the Health and Safety Code is amended to read:

1189.101. (a) The State Department of Health Services shall select primary care clinics that are exempt from federal taxation and community based, including clinics operated by tribes or tribal organizations, to be reimbursed for delivering medical services, including preventative health care, and smoking prevention and cessation health education, to program beneficiaries. In selecting primary care clinics for reimbursement, the department shall give priority to clinics that provide services in a medically underserved area or to a medically underserved population as determined by the department, according to designations and criteria set forth by the federal government.

(b) As a part of the award process for funding pursuant to this part, the department shall take into account the availability of primary care services in the various geographic areas of the state. The department shall determine which areas within the state have populations which have clear and compelling difficulty in obtaining access to primary care. The department shall consider proposals from new and existing eligible providers to extend clinic services to these populations. The department shall give equal consideration to all applicants, regardless of whether or not they have an existing contract with the department.

(c) Each primary care clinic applying for funds pursuant to this part shall demonstrate that the funds shall be used to expand medical services, including preventative health care, and smoking prevention and cessation health education, for program beneficiaries.

(d) The department shall make prospective interim payments to the selected primary care clinics for outpatient visits, on at least a quarterly basis, based on the primary care clinic's projected increase in outpatient visits as compared to the outpatient visits provided in the 1988 calendar year, and shall adjust such payments to correct for any underestimates or overestimates of outpatient visits. The department may also pay primary care clinics on a separate basis for case management services provided as a result of these outpatient visits.

(1) For purposes of this part, an outpatient visit shall include, diagnosis and medical treatment services, including the associated pharmacy, X-ray, and laboratory services, and prevention health services that are needed as a result of the outpatient visit. For a new patient, an outpatient visit shall also include a health assessment encompassing an assessment of smoking behavior and appropriate health education.

(2) "Case management" includes, for this purpose, the management of all physician services, both primary and specialty, and arrangements for hospitalization, postdischarge care, and followup care.

(3) Payment shall be on a per visit basis at a rate that is determined by the department to be appropriate for an outpatient visit as defined in this section.

In developing a statewide uniform rate for an outpatient visit as defined in this part, the department shall consider existing rates of payments for comparable outpatient visits. The rate shall be published in accordance with subdivision (e). The department shall review the outpatient visit rate on an annual basis.

(4) The department may also pay for case management services, and may establish a separate, uniform statewide rate for these services which shall be paid in addition to the outpatient visit rate. The rate for case management shall not exceed 5 percent of the rate for an outpatient visit. If, upon establishment of the outpatient visit rate, the department determines that the rate of payment for case management is not adequate to cover the cost of the service, the department may increase the rate for case management, but the rate shall not exceed 10 percent of the outpatient visit rate.

In developing the separate, uniform statewide rate for case management, the department shall take into account rates paid to providers for case management services under any other program funded in whole or in part by the state or federal government. The rates shall be published in accordance with subdivision (e). The department shall review the case management rate on an annual basis.

(5) A primary care clinic may, at its option, and with department approval, provide and be paid for both outpatient visits and case management services.

(e) Not later than January 15 of each year, the department shall adopt and provide each clinic with a schedule for programs under this part, including the date for notification of availability of funds, the deadline for the submission of a completed application, and an anticipated contract award date for successful applicants.

SEC. 2. Section 1189.109 of the Health and Safety Code is amended to read:

1189.109. (a) For any condition detected as part of a child health and disability prevention screen for any child eligible for services under Section 24165.3, if the child was screened by the clinic or upon referral by a child health and disability prevention program provider, unless the child is eligible to receive care with no share of cost under the Medi-Cal program, is covered under another publicly funded program, or the services are payable under private coverage, a clinic shall, as a condition of receiving funds under this article, do all of the following:

(1) Insofar as the clinic directly provides these services for other patients, provide medically necessary followup treatment, including

prescription drugs.

(2) Insofar as the clinic does not provide treatment for the condition, arrange for the treatment to be provided.

(b) (1) Beginning with the 1990–91 fiscal year, insofar as a clinic provides dental treatment services, the clinic's responsibility to provide those dental services to any child in any fiscal year shall not exceed one thousand dollars ($1,000), in addition to any reimbursement received for dental treatment services, including, but not limited to, reimbursements received under this part.

(2) The state department shall reimburse the cost of dental services provided after June 30, 1990, which exceed one thousand dollars ($1,000) from the primary care clinic risk pool established pursuant to subdivision (a) of Section 1189.110.

(3) Any claim submitted pursuant to this subdivision that is related to a service provided in any of the 1990–91, 1991–92, 1992–93, or 1993–94 fiscal years shall be submitted no later than 90 days after the close of that fiscal year.

(c) (1) If any child requires treatment the clinic does not provide, the clinic shall arrange for the treatment to be provided, and the name of that provider shall be noted in the patient's medical record.

(2) The clinic shall contact the provider or the patient or his or her guardian, or both, within 30 days after the arrangement for the provision of treatment is made, and shall determine if the provider has provided appropriate care, and shall note the results in the patient's medical record.

(3) If the clinic is not able to determine, within 30 days after the arrangement for the provision of treatment is made, whether the needed treatment was provided, the clinic shall provide written notice to the county child health and disability prevention program director, and shall also provide a copy to the state director of the program.

(d) (1) For the 1990–91 to the 1993–94 fiscal years, inclusive, the state department may establish a reimbursement program for referral case management services required pursuant to subdivision (c), provided to a child pursuant to subdivision (a).

(2) The state department may utilize funds appropriated for the purposes of this part for reimbursements under paragraph (1).

(3) (A) The state department shall evaluate the effectiveness of the referral case management program, including the extent to which children actually receive appropriate treatment for conditions detected as part of the Child Health and Disability Prevention Program examination.

(B) The state department shall report the evaluation required by subparagraph (A) to the health policy committee of each house of the Legislature no later than April 1 of each year.

(e) From funds appropriated for the 1989–90 fiscal year, not more than ten million dollars ($10,000,000) may be utilized by the department for grants to clinics for modernization of clinic facilities

and for expansion of primary care capacity in order to provide adequate access to clinic services.

SEC. 3. Section 1797.98e of the Health and Safety Code is amended to read:

1797.98e. (a) It is the intent of the Legislature that a simplified, cost-efficient system of administration of this chapter be developed so that the maximum amount of funds may be utilized to reimburse physicians and surgeons and for other emergency medical services purposes. The administering agency shall establish procedures and time schedules for the submission and processing of proposed reimbursement requests submitted by physicians and surgeons. The schedule shall provide for disbursements of moneys in the Emergency Medical Services Fund on at least an annual basis to applicants who have submitted accurate and complete data for payment by a date to be established by the administering agency. When the administering agency determines that claims for payment are of sufficient numbers and amounts, that if paid, the claims would exceed the total amount of funds available for payment, the administering agency shall prorate payments to each claimant at a level less than the maximum payment level. Each administering agency may encumber sufficient funds during one fiscal year to reimburse claimants for losses incurred during that fiscal year for which claims will not be received until after the fiscal year. The administering agency may, as necessary, request records and documentation to support the amounts of reimbursement requested by physicians and surgeons and the administering agency may review and audit such records for accuracy. Reimbursements requested and reimbursements made that are not supported by records may be denied to and recouped from physicians and surgeons. Physicians and surgeons found to submit requests for reimbursement that are inaccurate or unsupported by records may be excluded from submitting future requests for reimbursement.

(b) Each provider of health services which receives payment under this chapter shall keep and maintain records of the services rendered, the person to whom rendered, the date, and any additional information the administering agency may, by regulation, require, for a period of three years from the date the service was provided.

(c) During normal working hours, the administering agency may make any inspection and examination of a hospital's or physician and surgeon's books and records needed to carry out the provisions of this chapter. A provider who has knowingly submitted a false request for reimbursement shall be guilty of civil fraud.

(d) Nothing in this chapter shall prevent a physician from utilizing an agent who furnishes billing and collection services to the physician to submit claims or receive payment for claims.

(e) All payments from the fund shall be limited to claims for care rendered by physicians and surgeons to patients who are initially medically screened, evaluated, treated, or stabilized in one of the following:

(1) A basic or comprehensive emergency department of a licensed general acute care hospital.

(2) A site that was approved by a county prior to January 1, 1990, as a paramedic receiving station for the treatment of emergency patients.

(3) A standby emergency department that was in existence on January 1, 1989, in a hospital specified in Section 1188.855.

(4) For the 1991–92 fiscal year and each fiscal year thereafter, a facility which contracted prior to January 1, 1990, with the National Park Service to provide emergency medical services.

SEC. 4. Section 1797.98e of the Health and Safety Code is amended to read:

1797.98e. (a) It is the intent of the Legislature that a simplified, cost-efficient system of administration of this chapter be developed so that the maximum amount of funds may be utilized to reimburse physicians and surgeons and for other emergency medical services purposes. The administering agency shall select an administering officer and shall establish procedures and time schedules for the submission and processing of proposed reimbursement requests submitted by physicians and surgeons. The schedule shall provide for disbursements of moneys in the Emergency Medical Services Fund on at least an annual basis to applicants who have submitted accurate and complete data for payment by a date to be established by the administering agency. When the administering agency determines that claims for payment for physician and surgeon services are of sufficient numbers and amounts, that if paid, the claims would exceed the total amount of funds available for payment, the administering agency shall fairly prorate, without preference, payments to each claimant at a level less than the maximum payment level. Each administering agency may encumber sufficient funds during one fiscal year to reimburse claimants for losses incurred during that fiscal year for which claims will not be received until after the fiscal year. The administering agency may, as necessary, request records and documentation to support the amounts of reimbursement requested by physicians and surgeons and the administering agency may review and audit such records for accuracy. Reimbursements requested and reimbursements made that are not supported by records may be denied to and recouped from physicians and surgeons. Physicians and surgeons found to submit requests for reimbursement that are inaccurate or unsupported by records may be excluded from submitting future requests for reimbursement. The administering officer shall not give preferential treatment to any facility, physician and surgeon, or category of physician and surgeon and shall not engage in practices that constitute a conflict of interest by favoring a facility or physician and surgeon with which the administering officer has an operational or financial relationship. A hospital administrator of a hospital owned or operated by a county of a population of 250,000 or more as of January 1, 1991, or a person under the direct supervision of such a

person, shall not be the administering officer. The board of supervisors of a county or any other county agency may serve as the administering officer.

(b) Each provider of health services which receives payment under this chapter shall keep and maintain records of the services rendered, the person to whom rendered, the date, and any additional information the administering agency may, by regulation, require, for a period of three years from the date the service was provided. The administering agency shall not require any additional information from a physician and surgeon providing emergency medical services that is not available in the patient record maintained by the entity listed in subdivision (f) where the medical services are provided, nor shall the administering agency require a physician and surgeon to make eligibility determinations.

(c) During normal working hours, the administering agency may make any inspection and examination of a hospital's or physician and surgeon's books and records needed to carry out the provisions of this chapter. A provider who has knowingly submitted a false request for reimbursement shall be guilty of civil fraud.

(d) Nothing in this chapter shall prevent a physician and surgeon from utilizing an agent who furnishes billing and collection services to the physician and surgeon to submit claims or receive payment for claims.

(e) All payments from the fund pursuant to Section 1797.98c to physicians and surgeons shall be limited to physicians and surgeons who, in person, provide onsite services in a clinical setting, including, but not limited to, radiology and pathology settings.

(f) All payments from the fund shall be limited to claims for care rendered by physicians and surgeons to patients who are initially medically screened, evaluated, treated, or stabilized in any of the following:

(1) A basic or comprehensive emergency department of a licensed general acute care hospital.

(2) A site that was approved by a county prior to January 1, 1990, as a paramedic receiving station for the treatment of emergency patients.

(3) A standby emergency department that was in existence on January 1, 1989, in a hospital specified in Section 1188.855.

(4) For the 1991–92 fiscal year and each fiscal year thereafter, a facility which contracted prior to January 1, 1990, with the National Park Service to provide emergency medical services.

(g) Payments shall be made only for emergency services provided on the calendar day on which emergency medical services are first provided and on the immediately following two calendar days, however, payments may not be made for services provided beyond a 48-hour period of continuous service to the patient.

(h) Notwithstanding subdivision (g), if it is necessary to transfer the patient to a second facility providing a higher level of care for the treatment of the emergency condition, reimbursement shall be

available for services provided at the facility to which the patient was transferred on the calendar day of transfer and on the immediately following two calendar days, however, payments may not be made for services provided beyond a 48-hour period of continuous service to the patient.

(i) Payment shall be made for medical screening examinations required by law to determine whether an emergency condition exists, notwithstanding the determination after the examination that a medical emergency does not exist. Payment shall not be denied solely because a patient was not admitted to an acute care facility. Payment shall be made for services to an inpatient only when the inpatient has been admitted to a hospital from an entity specified in subdivision (f).

(j) The administering agency shall compile a quarterly and year-end summary of reimbursements paid to facilities and physicians and surgeons. The summary shall include, but shall not be limited to, the total number of claims submitted by physicians and surgeons in aggregate from each facility and the amount paid to each physician and surgeon. The administering agency shall provide copies of the summary and forms and instructions relating to making claims for reimbursement to the public, and may charge a fee not to exceed the reasonable costs of duplication.

(k) Each county shall establish an equitable and efficient mechanism for resolving disputes relating to claims for reimbursements from the fund. The mechanism shall include a requirement that disputes be submitted either to binding arbitration conducted pursuant to arbitration procedures set forth in Chapter 3 (commencing with Section 1282) and Chapter 4 (commencing with Section 1285) of Part 3 of Title 9 of the Code of Civil Procedure, or to a local medical society for resolution by neutral parties.

SEC. 5. Section 24165.3 of the Health and Safety Code is amended to read:

24165.3. The State Department of Health Services shall expand the Child Health and Disability Prevention (CHDP) Program contained in Article 3.4 (commencing with Section 320) of Chapter 2 of Division 1 as follows:

(a) Any child between birth and 90 days after entrance into first grade, all persons under 21 years of age who are eligible for the California Medical Assistance Program, and any person under 19 years of age whose family income is not more than 200 percent of the federal poverty level shall be eligible for services under the program in the county of which they are a resident. The department shall adopt rules and regulations specifying which age groups shall be given certain types of screening tests and recommendations for referral.

(b) The first source of referral under the program shall be the child's usual source of health care. If referral is required and no regular source of health care can be identified, the facility or provider providing health screening and evaluation services shall

provide a list of three qualified sources of care, without prejudice for or against any specific source.

(c) The department shall issue protocols for an antitobacco education component of the child health and disability prevention medical examination. The protocols shall include the following: dissuading children from beginning to smoke, encouraging smoking cessation, and providing information on the health effects of tobacco use on the user, children, and nonsmokers. The protocols shall also include a focus on health promotion, disease prevention, and risk reduction, utilizing a "wellness" perspective that encourages self-esteem and positive decisionmaking techniques, and referral to an appropriate community smoking cessation program.

(d) Notwithstanding any other provision of law, the department shall ensure that a portion of the funds in the Child Health Disability Prevention Program budget is used to facilitate the integration of the medical and dental components of all aspects of that program.

(e) The department shall expand its support and monitoring of county child health and disability prevention program efforts to provide all of the following:

(1) Review of a representative, statistically valid, randomly selected sample of child health and disability prevention health assessments, including, but not limited to, dental assessments, which result in the discovery of conditions which require followup diagnosis and treatment, including but not limited to dental treatment, and which qualify for services under this section. The purpose of the survey and followup reviews of local programs is to determine whether necessary diagnosis and treatment services are being provided, and the degree to which those services comply with the intent of the act that added this subdivision. These survey reviews shall include all counties and shall be conducted at least three times a year.

(2) At least once a year, as part of regular visits to county child health and disability prevention programs to provide technical assistance, support services and monitoring and evaluation of program performance, state department staff shall review the effectiveness of the mandated treatment program. The purpose of this review is to assure that the county is providing appropriate followup services for conditions discovered during child health and disability prevention health assessments. This review shall be done in conjunction with the ongoing survey activity of the Child Health and Disability Prevention Branch of the State Department of Health Services and shall utilize data resulting from that activity.

(3) If the department establishes that a county has failed to provide treatment services mandated by the act that added this subdivision, the department shall require the county to submit a plan of correction within 90 days. If the department finds that substantial correction has not occurred within 90 days following receipt of the correction plan, it may require the county to enter into a contract pursuant to Section 16934.5 for the remainder of the fiscal year and

the following fiscal year, and for this purpose shall withhold the same percentage of funds as are withheld from other counties participating in the program pursuant to Section 16934.5.

SEC. 6. Section 24165.5 of the Health and Safety Code is amended to read:

24165.5. (a) (1) Except as provided in paragraph (2), each county health department or city health department as provided in Section 16800 of the Welfare and Institutions Code shall be the lead local agency for its county. The local lead agency shall have the overall responsibility for the success of the programs funded pursuant to this chapter in its county.

(2) Counties contracting with the State Department of Health Services for the provision of health care services pursuant to Section 16809 of the Welfare and Institutions Code may elect to enter into an arrangement with the state department for the administration and provision of funds and services subject to this chapter in their counties. In those cases, the state department shall act as the local lead agency for that county.

(b) The local lead agency shall do all of the following:

(1) Provide, or contract for, preventive health education against tobacco services to targeted populations.

(2) Establish a coordinated information, referral, outreach, and intake system for preventive health education against tobacco services for targeted populations.

(3) Administer funds in accordance with this chapter, and department guidelines.

(4) Establish a uniform data collection system in compliance with standards and guidelines issued by the state department, and submit audit and fiscal reports as required by the state department.

(5) Coordinate services authorized by this chapter within and between county service providers.

(6) Provide technical assistance to service providers.

(7) Review, and suggest improvements to proposed county school district antitobacco plans. Prepare a letter for the county officer of education setting forth conclusions of the review. Work closely with the county office of education to ensure effective coordination of local school and nonschool antitobacco efforts.

(8) Coordinate activities with other governmental agencies.

(c) The local plans described in paragraph (4) of subdivision (b) shall include all of the following:

(1) A description of the targeted population, including age, race, ethnicity, language, education, income levels, its status as urban or rural, transportation needs, and any other information which the local lead agency determines is relevant.

(2) Local data on smoking and tobacco use among the targeted population.

(3) Goals for how many persons of the targeted population will be reached by health education, how many will participate in a smoking prevention or cessation program, and how many will quit or not start

smoking as a result.

(4) A description of the direct services to be provided under the plan, including the services to be provided to the targeted populations enumerated in Section 24161.5 and schoolage youth who do not receive services through public school programs.

(5) Cost estimates for programs identified in the plan.

SEC. 7. Section 24168.05 is added to the Health and Safety Code, to read:

24168.05. (a) The State Department of Education shall make available funds appropriated to it from the Health Education Account in the Cigarette and Tobacco Products Surtax Fund for the implementation of Section 24168 according to the following schedule:

(1) (A) Not less than two-thirds of that amount shall be awarded to local educational agencies. Funds allocated pursuant to paragraphs (2) and (3) shall not be considered funds for distribution to local educational agencies.

(B) Not less than two hundred thousand dollars ($200,000) of the amount subject to subparagraph (A) shall be made available for proportionate awards to applicant education centers pursuant to Article 6 (commencing with Section 33380) of Chapter 3 of Part 20 of the Education Code, for tobacco use prevention projects.

(2) Not less than two hundred thousand dollars ($200,000) of the amount awarded pursuant to Section 24168 shall be used for the support of statewide program evaluation.

(3) Not more than nine hundred thousand dollars ($900,000) of the amount awarded pursuant to Section 24168 shall be awarded as grants for technical assistance, implementation strategies, and regional coordinating activities related to tobacco use prevention pursuant to subdivision (c) of Section 24168.

(b) Any amount that exceeds the amounts specified in subdivision (a) shall be allocated for competitive grants pursuant to subdivision (c) of Section 24168.

(c) On and after January 1, 1992, funding to which this section applies shall be made available only upon a determination by the Legislative Analyst and the Tobacco Education Oversight Committee, in the evaluation required by Section 24168.8, indicating that the tobacco use prevention program meets the purpose of this chapter.

SEC. 8. Section 24169.8 of the Health and Safety Code is amended to read:

24169.8. This chapter shall remain operative only until July 1, 1994, and shall remain in effect only until January 1, 1995, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1995, deletes or extends that date.

SEC. 9. Section 14148.5 of the Welfare and Institutions Code is amended to read:

14148.5. (a) State funded perinatal services shall be provided under the Medi-Cal program to pregnant women and state funded

medical services to infants up to one year of age in families with incomes above 185 percent, but not more than 200 percent of the federal poverty level, in the same manner that these services are being provided to the Medi-Cal population, including eligibility requirements and integration of eligibility determinations and payment of claims, except the assets of the family shall not be considered in making the eligibility determination.

(b) Services provided under this section shall not be subject to any share-of-cost requirements.

(c) (1) The department, in implementing the Medi-Cal program and public health programs, in coordination with the Major Risk Medical Insurance Programs Access for Infants and Mothers component shall provide for outreach activities in order to enhance participation and access to perinatal services. Notwithstanding Section 30122 of the Revenue and Taxation Code, funding for these outreach activities shall be made available from the funds appropriated for purposes of this section, and to the extent permissible, from funding received pursuant to Subchapter XIX (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code. Funding received pursuant to the federal provisions shall be used to expand perinatal outreach activities.

(2) Those outreach activities required by paragraph (1) shall be targeted toward both Medi-Cal and non-Medi-Cal eligible high risk or uninsured pregnant women and infants. Outreach activities may include, but not be limited to, all of the following:

(A) Education of the targeted women on the availability and importance of early prenatal care and referral to Medi-Cal and other programs.

(B) Information provided through toll-free telephone numbers.

(C) Recruitment and retention of perinatal providers.

(d) The amendment made to paragraph (1) of subdivision (c) by Senate Bill 99 of the 1991–92 Regular Session constitutes an amendment to the Tobacco Tax and Health Protection Act of 1988.

(e) This section shall remain operative only until July 1, 1994, and shall remain in effect only until January 1, 1995, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1995, deletes or extends that date.

SEC. 10. Section 14148.95 of the Welfare and Institutions Code, as added by Chapter 278 of the Statutes of 1991, is amended to read:

14148.95. (a) (1) Under the direction of the local health officer, tobacco use prevention coordinator, and the perinatal services coordinator, or the equivalent thereof, counties that receive funds pursuant to Section 24164.5 shall provide perinatal program coordination, patient advocacy, and expanded access services in each county for low-income pregnant women, including all target groups listed in Section 14148.9 integrated with the county's perinatal program.

(2) It is the intent of the Legislature that counties will expend at least one-third of the funds received pursuant to Section 24164.5 for

the purposes of this section.

(3) Counties that contract with the department for the provision of public health services may contract with the department for the services described in paragraph (1).

(b) Each county shall develop a supplement to their local plan pursuant to Section 24164.5 of the Health and Safety Code. The county's plan supplement shall include all of the following information:

(1) The county's perinatal statistics.

(2) A description of current outreach, coordination, antismoking, antialcohol, antidrug, and other related program activities, including those funded through the Cigarette and Tobacco Products Surtax Fund, relating to pregnant women and women of childbearing age in the county.

(3) A description of the additional activities and services to be undertaken, and the number of women in each target subgroup which the county proposes to reach with these funds.

(4) The proposed measures of success and a description of how the county's overall effort, and this particular effort, will be evaluated.

(c) All counties shall maintain the following services, supported by this program or from other sources, to the extent funds are available.

(1) A coordinated and integrated system providing early outreach, pregnancy screening, patient advocacy, targeted case management, health education, and referral to drug and alcohol treatment and perinatal care services to pregnant women from all target groups.

(2) (A) A patient advocacy and education component that will reach women from all target populations at least six months prior to, and in the earliest stages of pregnancy, and provide information, health screenings, and assistance in obtaining appropriate services.

(B) Patient advocates may arrange for prenatal care for eligible pregnant women.

(d) In developing and implementing the program described in this section, each county shall obtain the involvement and participation of local community organizations, including clinics and schools with special expertise in the provision of health education, perinatal care, and alcohol and drug treatment.

SEC. 11. Section 14148.96 of the Welfare and Institutions Code, as added by Chapter 278 of the Statutes of 1991, is amended to read:

14148.96. (a) Health education services shall be an integral part of each county's program pursuant to Section 14148.85 to provide coordinated services to pregnant and postpartum women and other target groups specified in Section 14148.9.

(b) The Tobacco Control Section of the department, in collaboration with the State Department of Alcohol and Drug Programs, and programs providing nutrition services to women during the perinatal period, shall develop protocols, procedures,

instructional materials, inservice training, data collection formats and requirements, and reimbursement schedules where applicable, for the provision of tobacco education to pregnant and postpartum women and other target groups specified in Section 14148.9.

(c) Services may be funded through the Health Education Account in the Tobacco Surtax Fund for purposes of this article, including, but are not limited to, all of the following:

(1) Outreach.

(2) Assessment of smoking status and exposure to secondhand smoke.

(3) Development and implementation of an individualized strategy to prevent smoking and exposure to smoke during pregnancy and the postpartum period, including counseling and advocacy services, public health nursing services, provision of motivational messages, cessation services, nonmonetary incentives to maintain a healthy lifestyle, and other cessation or tobacco use prevention activities, including child care or transportation in conjunction with those activities.

(4) Provision of followup, reassessment, maintenance, and relapse prevention services.

(d) Funds from the Health Education Account in the Cigarette and Tobacco Products Surtax Fund may be used in combination with funds from other sources if the services provided to each person are documented and there is an auditable connection to services.

(e) The services provided pursuant to this section shall expand and enhance the health education services provided under the comprehensive perinatal services program and shall be coordinated with other services provided to pregnant women and target groups, pursuant to Section 14148.9.

SEC. 12. Section 14148.97 of the Welfare and Institutions Code, as added by Chapter 278 of the Statutes of 1991, is amended and renumbered to read:

14148.99. This article shall remain operative only until July 1, 1994, shall remain in effect only until January 1, 1995, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1995, deletes or extends that date.

SEC. 13. Section 14148.98 is added to the Welfare and Institutions Code, to read:

14148.98. No funds from the Health Education Account in the Cigarette and Tobacco Products Surtax Fund may be used in a manner that violates paragraph (1) of subdivision (b) of Section 30122 of the Revenue and Taxation Code.

SEC. 14. Section 14149.7 of the Welfare and Institutions Code, as added by Chapter 278 of the Statutes of 1991, is amended and renumbered to read:

14148.97. For purposes of this article, "outreach" includes, but is not limited to, coordinated local systems of care providing pregnancy testing, screening for risk factors, care coordination, referral to appropriate services such as alcohol and drug treatment,

transportation, childcare, patient incentives, and assurance of continuous prenatal care including recruitment and retention of providers.

SEC. 15. Section 16901 of the Welfare and Institutions Code is amended to read:

16901. "CMSP county" means a county which contracts with the department for the administration of health services pursuant to Section 16809.

SEC. 16. Section 16905 of the Welfare and Institutions Code is amended to read:

16905. "MISP county" means a county which administers, either directly or through contracts with selected providers, its own indigent health services program.

SEC. 17. Section 16915 of the Welfare and Institutions Code is amended to read:

16915. (a) Any county receiving an allocation pursuant to this part shall, at a minimum, report to the department all indigent health care program demographic, expenditure, and utilization data, in a manner that will provide an unduplicated count of users, as follows:

(1) The following patient demographic data:

(A) Age.

(B) Sex.

(C) Ethnicity.

(D) Family size.

(E) Monthly income.

(F) Source of income, according to the following categories:

(i) Disability income.

(ii) Employment.

(iii) Retirement.

(iv) General assistance.

(v) Other.

(G) Type of employment, according to the following categories:

(i) Agriculture.

(ii) Labor and production.

(iii) Professional and technical.

(iv) Service.

(v) Nonemployed.

(H) Payer source, according to the following categories:

(i) Private insurance.

(ii) County program.

(iii) Self-pay.

(iv) Other.

(I) ZIP code of residence.

(2) Indigent health care expenditure data, including all of the following:

(A) Inpatient hospital services, according to the following categories:

(i) County hospital.

(ii) Contract hospital.

(iii) University teaching hospital.

(iv) Other, noncontract hospital.

(v) Diagnostic category, as defined by the International Classification of Diseases, 9th Revision, Clinical Modification (ICD-9-CM).

(B) Outpatient services, according to the following categories:

(i) Hospital outpatient.

(ii) Freestanding community clinic.

(iii) Primary care physician.

(iv) Nonemergency services rendered in an emergency room environment.

(v) Type of service.

(C) Emergency room services, according to the following categories:

(i) Emergency services.

(ii) Emergency services which result in a hospital admission.

(iii) Emergency services, which are rendered in a noncounty, noncontract hospital and result in a transfer of the patient to a county or contract hospital.

(3) Indigent health care utilization data.

(A) Inpatient hospital services, according to the following categories:

(i) County hospital days and discharges.

(ii) Contract hospital days and discharges.

(iii) University teaching hospital days and discharges.

(iv) Other, noncontract hospital days and discharges.

(B) Outpatient services, according to the following categories:

(i) Hospital outpatient visits.

(ii) Freestanding community clinic visits.

(iii) Primary care physician visits.

(iv) Visits to a hospital emergency room for nonemergency services.

(C) Emergency room services, according to the following categories:

(i) Visits for emergency services in a county hospital.

(ii) Visits for emergency services in a contract hospital.

(iii) Visits for emergency services in a noncounty, noncontract hospital.

(iv) Visits for emergency services which result in an admission in a county hospital.

(v) Visits for emergency services which result in an admission to a contract hospital.

(vi) Visits for emergency services which result in an admission to a noncounty, noncontract hospital.

(D) Visits for emergency services which are rendered in a noncounty, noncontract hospital and result in a transfer of the patient to a county or contract hospital.

(4) Geographic location of rendered services.

(A) Inpatient hospital services, according to the following categories:

(i) County hospital.

(ii) Contract hospital.

(iii) University teaching hospital.

(iv) Other, noncontract hospital.

(B) Outpatient services, according to the following categories:

(i) Hospital outpatient.

(ii) Freestanding community clinic.

(iii) Primary care physician.

(iv) Nonemergency services rendered in an emergency room environment.

(C) Emergency room services.

(5) Expenditure and utilization data for persons with acquired immune deficiency syndrome (AIDS) and AIDS-related complex.

(A) Total number of patients.

(B) Number of inpatient users.

(C) Number of discharges.

(D) Total inpatient days.

(E) Total inpatient expenditures.

(F) Number of outpatient users.

(G) Number of outpatient visits.

(H) Total outpatient expenditures.

(I) Number of emergency room users.

(J) Number of emergency room visits.

(K) Total emergency room expenditures.

(b) Counties shall report demographic, cost and utilization data on indigent health care to the department as follows:

(1) A quarterly report no later than 90 days after the last day of the quarter to be reported.

(2) An estimated annual report no later than 180 days after the last day of the year to be reported.

(3) An actual annual report no later than 360 days after the last day of the year to be reported.

(4) Counties shall maintain all patient-specific data collected through the medically indigent care reporting system for a period of 24 months after the last day of the fiscal year for which the data was collected.

(5) Reports shall be submitted on machine readable media, on 5¼ inch or 3½ inch diskette, in the format specified by the department.

(c) Counties which enter into a contract with the department pursuant to Section 16809 and which do not operate a county hospital and which also elect to enter into a contract with the department to administer the noncounty hospital portion of the Hospital Services Account, pursuant to Section 16934.7, and the Physician Services Account, pursuant to Section 16954, are not required to report indigent health care program demographic, cost, and utilization data pursuant to this section.

(d) The department shall collect the data specified in subdivision

(a) for services paid for through the hospital contract-back and physician services contract-back programs specified in Section 16934.7, subdivision (c) of Section 16952, and Section 16954.

(e) The data specified in subparagraphs (D), (E), (F), and (G) of paragraph (1) of subdivision (a) for services paid for with funds specified under subparagraph (A) of paragraph (1) of subdivision (b) of Section 16946 and funds administered pursuant to Article 3.5 (commencing with Section 16951) of Chapter 5 are not required to be reported to the department pursuant to this section.

SEC. 18. Section 16916 of the Welfare and Institutions Code is amended to read:

16916. The department shall withhold payments to a county pursuant to this part if the county fails to provide the reports and data required by this chapter according to the schedule specified in subdivisions (a) and (b) of Section 16915.

SEC. 19. Section 16917 of the Welfare and Institutions Code is amended to read:

16917. (a) Based on data submitted by the counties and other data available to the department, the department shall, by June 30, 1990, initially, and by January 1 of each subsequent year, prepare a report on the demographics of the medically indigent population, and the cost and utilization of health care services delivered to medically indigent persons as provided directly or indirectly by counties. The report shall be written to provide useful information for the hospital administrators, county administrators, boards of supervisors, and the health policy and fiscal committees of the Legislature. The report shall include, but not be limited to, all of the following:

(1) The demography of the medically indigent population.

(2) Utilization rates of services for:

(A) Inpatient services including the total number of patient days, total discharges, and the average length of stay for the following:

(i) Persons with AIDS or AIDS-Related Complex.

(ii) Persons who cannot afford to pay for those services, and for whom payment will not be made through any private coverage or by any program funded in whole or in part by the federal government.

(iii) Persons admitted from the emergency room.

(iv) Persons below 150 percent of the federal poverty level.

(v) Perinatal services including deliveries.

(B) Outpatient services including the total number of outpatient visits, and by the following:

(i) Persons with AIDS and AIDS-Related Complex.

(ii) Persons who cannot afford to pay for those services, and for whom payment will not be made through any private coverage or by any program funded in whole or in part by the federal government.

(iii) Persons below 150 percent of the federal poverty level.

(iv) Prenatal services.

(C) Emergency room services including the total number of emergency room visits, and any visits which meet the following criteria:

(i) Resulting in a hospital admission.

(ii) Which did not result in a hospital admission.

(iii) For persons with AIDS and AIDS-Related Complex.

(iv) For persons who cannot afford to pay for those services, and for whom payment will not be made through any private coverage or by any program funded in whole or in part by the federal government.

(3) Cost of services provided for all of the following:

(A) Inpatient services including the total cost of inpatient services, average cost per patient day, and average length of stay for the following:

(i) Persons with AIDS and AIDS-Related Complex.

(ii) Persons who cannot afford to pay for those services, and for whom payment will not be made through any private coverage or by any program funded in whole or in part by the federal government.

(iii) Persons below 150 percent of the federal poverty level.

(iv) Persons admitted from the emergency room.

(v) Perinatal services including deliveries.

(B) Outpatient services including the total costs for outpatient visits, and the average cost per outpatient visit for the following:

(i) Persons with AIDS and AIDS-Related Complex.

(ii) Persons who cannot afford to pay for those services, and for whom payment will not be made through any private coverage or by any program funded in whole or in part by the federal government.

(iii) Persons under 150 percent of the federal poverty level.

(iv) Prenatal services.

(C) Emergency room services including the total and average costs for the following:

(i) Emergency room visits resulting in a hospital admission.

(ii) Emergency room visits which did not result in a hospital admission.

(iii) Emergency room visits for persons with AIDS and AIDS-Related Complex.

(iv) Emergency room visits for persons who cannot afford to pay for those services, and for whom payment will not be made through any private coverage or by any program funded in whole or in part by the federal government.

(4) The distribution of funds expended on health care for the medically indigent for the following:

(A) Inpatient services and for the most frequently required services, including the average length of stay and average cost per patient day.

(B) Outpatient services and for the most frequently used services.

(C) Per capita net county contribution, and the per capita county

contribution as a percent of per capita county income.

(5) County revenue for health care services, by category, for the most recent five years.

(A) State assistance under the following:

(i) AB 8 inpatient and outpatient, under Part 4.6 (commencing with Section 16800).

(ii) Medi-Cal.

(iii) California Healthcare for Indigents Program.

(iv) County Medical Services Program.

(v) Other state assistance.

(B) Federal assistance under the following:

(i) Medicare.

(ii) Federal State Legalization Impact Assistance Grants.

(iii) Other federal assistance.

(C) County assistance under the following:

(i) Enterprise funds.

(ii) County contributions.

(iii) The health account of the local health and welfare trust fund created pursuant to Section 17600.10.

(b) The format of the report shall include tables and figures with narrative interpretation and analysis of the data presented. The data shall be presented in a manner which provides for meaningful comparisons between counties and facilities, and displays changes in individual county and facility data from period to period.

(c) The department shall, in addition to the annual report, be responsible for the preparation of special indepth reports which evaluate the efficiency, effectiveness, and adequacy of the county health delivery system. In this capacity the department shall, from time to time issue special indepth reports which provide information for health policymakers about county health system problems and trends. At least annually the department shall consult with the Legislature, counties, and other interested groups about the subject matter for future special reports.

SEC. 20. Section 16918 of the Welfare and Institutions Code is amended to read:

16918. (a) Counties shall report information on indigent health care program demographic, expenditure, and utilization data, in a form which will provide a count of persons using services funded under this part, to the department, on a quarterly basis.

(b) Data required by subdivision (a) shall include all of the following information:

(1) For the Hospital Services Account, the Physician Services Account, and the Other County Health Services Account in the trust fund established pursuant to Section 16909, the period commencing July 1, 1989, to June 30, 1994, inclusive, the data shall include all of the following:

(A) Date of birth.

(B) Sex.

(C) Residence ZIP code.

(D) Child Health and Disability Prevention Program followup.
(E) Other potential third-party payer source.
(F) Amount billed to the county.

(2) For the Physician Services Account and the Other County Health Services Account established pursuant to Section 16909, the following demographic data shall be reported on a minimum of 5 percent of patients eligible under this part, for the period commencing April 1, 1990, to June 30, 1994; for the Hospital Services Account in the fund, for the period commencing April 1, 1990, to June 30, 1994, the following demographic data shall be reported on a minimum of 5 percent of patients eligible under this part; for the period commencing July 1, 1990, to June 30, 1994, the level of data reported shall be on a per hospital basis as determined by the department:

(A) Ethnicity.
(B) Family size.
(C) Family gross monthly income.
(D) Family principal income source.

(3) For the Hospital Services Account, the data shall include all of the following:

(A) Date of service or inpatient admission.
(B) Type of service.
(C) Number of inpatient days; and the number of outpatient and emergency room visits.
(D) Diagnosis (inpatient only).

(4) For the Physician Services Account in the fund, the data shall include all of the following:

(A) Date of service.
(B) Type of service.
(C) Service setting.
(D) Physician specialty.

(5) For the Other County Health Services Account during the period commencing July 1, 1989, to June 30, 1994, inclusive, the data shall include all of the following:

(A) Date of service or inpatient admission.
(B) Type of service.
(C) Number of units.
(D) Type of units.

(c) (1) Physicians shall provide data under subdivision (b) for services provided in a hospital to the extent the information is available from the hospital.

(2) Physicians shall provide data under subdivision (b) for services performed in an office setting on 5 percent of patients for whom payment is received pursuant to Article 3.5 (commencing with Section 16951) of Chapter 5.

(d) For the period July 1, 1991 to June 30, 1994, inclusive, counties shall submit a report which displays expenditures and utilization data for each account in the trust fund established pursuant to Section 16909, to the department on a semiannual basis, in a form prescribed

by the department.

(e) Data required by subdivision (d) shall include all of the following:

(1) For the Hospital Services Account, the data shall include all of the following:

(A) Inpatient stay, including child health and disability prevention followup treatment, including the following information:

(i) Facility name.

(ii) Amount paid by the county.

(iii) Number of discharges.

(iv) Patient days.

(B) Outpatient visits, including child health and disability prevention followup treatment, including the following information:

(i) Facility name.

(ii) Amount paid by the county.

(iii) Number of visits.

(2) For the Physician Services Account, the data shall include all of the following:

(A) Emergency services, including the following information:

(i) The number of providers.

(ii) The number of visits.

(iii) The amount paid by the county.

(B) Obstetrics, including the following information:

(i) The number of providers.

(ii) The number of visits.

(iii) The amount paid by the county.

(C) Pediatrics, including the following information:

(i) The number of providers.

(ii) The number of visits.

(iii) The amount paid by the county.

(D) Child health and disability prevention followup treatment, including the following information:

(i) The number of providers.

(ii) The number of visits.

(iii) The amount paid by the county.

(3) For the other county health services account, the data shall include all of the following:

(A) For funds expended for hospital services, those data in paragraph (1) of subdivision (e).

(B) For funds expended for physician services, those data in paragraph (1) of subdivision (e).

(C) For funds expended for services other than those provided and billed for by a hospital or physician, the data shall include:

(i) The number of providers by type of service.

(ii) The number of visits or units, or both, by type of service.

(iii) The amount paid by the county by type of service.

(D) Child health and disability prevention followup treatment, including the following information:

(i) The number of providers.

(ii) The number of visits.

(iii) The amount paid by the county.

SEC. 21. Section 16934 of the Welfare and Institutions Code is amended to read:

16934. (a) As a condition of receiving funds under this chapter, a county shall provide, or arrange and pay for, medically necessary followup treatment, including necessary followup dental services and prescription drugs, for any condition detected as part of a child health and disability prevention screen for a child eligible for services under Section 24165.3 of the Health and Safety Code, if the child was screened by the county, or upon referral by a child health and disability prevention program provider. This section shall not apply to any child eligible to receive care with no share of cost under the Medi-Cal program or who is covered by another publicly funded program or for whom these services are covered or will be paid by any other responsible party. A county may require that hospitals which contract with the county pursuant to paragraph (2) of subdivision (b) of Section 16946, physicians who contract with the county pursuant to paragraph (3) of subdivision (c) of Section 16933 or dentists or any provider which contracts with the county pursuant to subdivision (b) of Section 16933 and receives funds appropriated for the purposes of this chapter to participate in complying with this section. A county shall not require that hospitals receiving an allocation pursuant to paragraph (1) of subdivision (b) of Section 16946 or physicians who receive payment from a physician services account established pursuant to paragraph (1) of subdivision (c) of Section 16933 participate in complying with this section.

(b) Dental services provided pursuant to this section shall be at least equal in scope and frequency to dental services available to Medi-Cal eligible children of the same age.

(c) Counties shall implement this section in consultation and coordination with their child health and disability prevention programs.

SEC. 22. Section 16934.5 of the Welfare and Institutions Code is amended to read:

16934.5. (a) For the 1990–91 fiscal year, each county may enter into a contract with the department in which the department agrees to assume the responsibility to pay for the cost of treatment service provided on or after July 1, 1990, to children pursuant to Section 16934.

(1) Each county intending to contract with the department shall submit to the department a notice of intent to contract adopted by the board of supervisors no later than June 1, 1990. For each fiscal year thereafter a notice adopted by the board of supervisors shall be submitted no later than April 1 of the fiscal year preceding the fiscal year for which the agreement will be in effect, in accordance with procedures established by the department. As a condition of contracting with the department, the department may establish uniform standards, forms, and procedures for the processing and

payment of claims for treatment services.

(2) (A) Each county contracting with the department pursuant to this subdivision for the 1991–92 fiscal year that has previously contracted with the department pursuant to this section shall agree that the department shall retain 10 percent of the allocation it would otherwise have received under this chapter. The department shall transfer amounts retained on a monthly basis to the CHDP Treatment Account established in subdivision (b).

(B) Any county that contracts with the department pursuant to this subdivision during the 1991-92 fiscal year that has not previously contracted with the department pursuant to this section shall agree that the department shall retain 20 percent of the allocation the county would otherwise have received under this chapter for that portion of the year for which it contracts under this section.

(3) In future fiscal years the percentage retained by the department may be adjusted to reflect actual payments, projected expenditures, funds appropriated by the Legislature for treatment services, and the overall status of the account established in subdivision (b).

(b) Beginning with the 1990–91 fiscal year, the department shall establish a separate Child Health and Disability Prevention Treatment Account. For purposes of this chapter "CHDP Treatment Account" means the account established pursuant to this subdivision.

(1) The following funds shall be deposited into the CHDP Treatment Account:

(A) Funds appropriated by the Legislature to fund the reinsurance account established in subdivision (b) of Section 16934.2 which are not expended or encumbered for that purpose.

(B) Any funds recouped from those counties electing to establish a 15 percent reserve pursuant to subdivision (a) of Section 16934.2.

(C) Funds retained by the department pursuant to subdivision (a).

(D) Interest earnings on funds.

(E) Any additional funds appropriated by the Legislature.

(2) Funds deposited in the CHDP Treatment Account shall be administered on an accrual basis and notwithstanding any other provision of law, except as provided in this chapter, shall not be transferred to any other fund or account except for purposes of investment as provided in Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code.

(3) Moneys deposited into the account shall constitute a risk pool which shall be used for any or all of the following purposes:

(A) Payment for services provided pursuant to Section 16934 in counties which have contracted with the department pursuant to subdivision (a).

(B) State administrative costs, including any costs associated with a contract for processing claims.

SEC. 23. Section 16936 of the Welfare and Institutions Code is

amended to read:

16936. (a) (1) Any county which requests funds under this chapter shall submit to the department, for approval by the department, an application for initial funding and a description of the proposed use and expenditure of the moneys, as a component of the county health services plan and budget submitted pursuant to Section 16800. The department shall review and approve this information for compliance with this part.

(2) Beginning in the 1990–91 fiscal year, any county which does not contract with the department pursuant to subdivision (a) of Section 16934.5 shall include in its county plan an estimate of the costs and funding arrangement for dental services.

(b) The department shall review each county's application and proposed use of funds for compliance with this chapter.

(c) The department shall make initial monthly payments upon approval of the county's request for funds containing assurances that the county will comply with this chapter and other applicable provisions of this part.

(d) Payments made beyond April 1, 1990, and February 1 of each subsequent fiscal year, shall be contingent upon the signing of an agreement between the county board of supervisors and the department.

SEC. 24. Section 16938 of the Welfare and Institutions Code is amended to read:

16938. (a) Each county shall submit a report of estimated and actual expenditures of moneys as part of the submissions required according to the procedures established by the department pursuant to Section 16806.

(b) The department shall review the reports submitted pursuant to subdivision (a) and recoup unspent moneys and expenditures which are not on compliance with this chapter or Section 16806.

(c) The department shall withhold, in whole or in part, payment of rural health services funds from a CMSP county until the county submits the reports required by this section to the department in the form, and according to time schedules, established by the department.

SEC. 25. Section 16941.1 of the Welfare and Institutions Code is amended to read:

16941.1. For the 1991–92 fiscal year, any county that elects to participate in the County Medical Services Program pursuant to paragraphs (1) and (2) of subdivision (b) of Section 16809 shall have the amounts allocated to that county pursuant to this chapter transferred as follows:

(a) Of the moneys allocated from the Hospital Services Account pursuant to Section 16943, seven-seventeenths of the transferable amount shall be transferred to the Hospital Services Account governed by Section 16932. The remainder of this amount shall be transferred to the County Medical Services Program Account and shall be utilized for the purposes specified in Section 16809.5.

(b) Of the moneys allocated from the Physician Services Account pursuant to Section 16950, seven-seventeenths of the transferable amount shall be transferred to the Physician Services Account governed by Section 16933. The remainder of this amount shall be transferred to the County Medical Services Program Account and shall be utilized for the purposes specified in Section 16809.5.

(c) Of the moneys allocated from the Unallocated Account governed by Section 16960, seven-seventeenths of the transferable amount shall be transferred to the Unallocated Account governed by the provisions of Section 16933. The remainder of this amount shall be transferred to the County Medical Services Program Account and shall be utilized for the purposes specified in Section 16809.5.

(d) (1) Except as provided in paragraph (2), funds transferred pursuant to this section shall be subject to all applicable statutes.

(2) For the 1991–92 fiscal year, counties shall not have the option to contract with the department for administration of moneys specified in subdivision (a) of Section 16934.7 or subdivision (c) of Section 16952.

SEC. 26. Section 16942 of the Welfare and Institutions Code is amended to read:

16942. (a) It is the intent of the Legislature that funds appropriated for the purposes of this chapter be administered, to the extent possible, in the same manner and according to same conditions and requirements as funds accounted for pursuant to Part 4.6 (commencing with Section 16800). The requirements of Sections 16804.1 and 16818 apply to services supported by funds appropriated for the purposes of this chapter.

(b) Except as specifically provided in this chapter, the authority of each county established pursuant to Section 16817 shall remain unaffected.

(c) Services, associated costs, and socio-demographic characteristics of persons served by each county under Section 17000 and supported in whole or in part by funds appropriated pursuant to this chapter shall be incorporated into the reports required pursuant to Sections 16806, 16816, and 16915.

SEC. 27. Section 16943 of the Welfare and Institutions Code is amended to read:

16943. (a) Of those allocations made pursuant to Section 16941 for the 1989–90 fiscal year, 59.5 percent shall be used to support uncompensated services provided by county and noncounty hospitals.

(b) For allocations under Section 16941 for the 1990–91 fiscal year and each fiscal year thereafter, the department shall establish that percentage of the total fiscal year appropriation to the CHIP Account which derives from the Hospital Services Account of the fund.

(c) The percentages established in subdivisions (a) and (b), when applied to the amount of each MISP county's annual allocation pursuant to Section 16941, constitute the minimum amount of the

allocation which is reserved for payment or support of uncompensated services provided by hospitals licensed pursuant to subdivision (a) of Section 1250 of the Health and Safety Code.

(d) The amount of funds calculated in subdivision (c) shall be referred to as the hospital services funding portion of each county's allocation made pursuant to Section 16941.

(e) (1) For purposes of calculating county and noncounty hospital allocations pursuant to this article for the 1991–92 fiscal year and each fiscal year thereafter, the sum of eighteen million dollars ($18,000,000) shall be added proportionately to each county's hospital services funding allocation calculated in subdivision (c).

(2) The amount added pursuant to paragraph (1) shall be distributed within each county's allocation according to subdivisions (a), (b), and (c) of Section 16946.

(f) (1) For purposes of calculating county and hospital allocations pursuant to this article for the 1991–92 fiscal year and each fiscal year thereafter, the sum of one million six hundred fifty thousand dollars ($1,650,000) shall be added proportionately to the allocations calculated in subdivision (c) for each county with no county hospital.

(2) The share for each county with no county hospital of the amount specified in paragraph (1) shall be determined by dividing the county's allocation calculated pursuant to subdivisions (c) and (e) by the total of all allocations for counties with no county hospital times the sum of one million six hundred fifty thousand dollars ($1,650,000).

(3) The amounts added pursuant to paragraphs (1) and (2) shall be divided into two equal amounts.

(A) The first amount shall be allocated to each eligible noncounty hospital within a county pursuant to paragraph (1) of subdivision (b) of Section 16946.

(B) The second amount shall be distributed to eligible hospitals pursuant to paragraph (2) of subdivision (b) of Section 16946.

(4) In future fiscal years, the amount specified in paragraph (1) shall be adjusted proportionately to reflect any augmentation or reduction in funding available for this article pursuant to Section 43 of Chapter 278 of the Statutes of 1991.

SEC. 28. Section 16945 of the Welfare and Institutions Code is amended to read:

16945. (a) The department shall annually verify and transmit to each MISP county and each CMSP county the figures specified in subdivision (c), using data supplied by the office.

(b) (1) For purposes specified in subdivision (c), the office shall use data from the quarterly reports required by Section 443.32 of the Health and Safety Code.

(2) For the 1989–90 fiscal year computations, the office shall use the 1988 calendar year data, as adjusted by the office, existing on the statewide file on September 1, 1989.

(3) For the computations for fiscal years after the 1989-90 fiscal year, the office shall use the data from the quarterly reports for the

calendar year preceding the computational fiscal year, as adjusted by the office, existing on the statewide file on April 15 immediately preceding the computational fiscal year.

(4) (A) Except as provided in subparagraphs (B), (C), and (D), the definitions, procedures, and data elements specified in Chapter 3 (commencing with Section 16920) shall be used in all computations required in subdivision (c).

(B) For the 1991–92 fiscal year, the following definitions shall be used in all computations required in subdivision (c):

(i) "Uncompensated care charges" means the sum of the charges related to patients falling within the charity-other category in the 1990 calendar year and 25 percent of the charges related to patients falling within the bad debts category in the first two quarters of the 1990 calendar year, as both categories of charges are reported quarterly to the office pursuant to Section 443.32 of the Health and Safety Code.

(ii) "Uncompensated care costs" means that amount calculated by applying an overall hospital cost-to-charge ratio, calculated by dividing gross operating expenses by gross inpatient and outpatient revenue, as reported quarterly to the office, to uncompensated care charges.

(C) For the 1992-93 fiscal year, the following definitions shall be used in all computations required in subdivision (c):

(i) "Uncompensated care charges" means the charges related to patients falling within charity-other, as reported quarterly to the office pursuant to Section 443.32 of the Health and Safety Code.

(ii) "Uncompensated care costs" means that amount calculated by applying an overall hospital cost-to-charge ratio, calculated by dividing gross operating expenses by gross inpatient and outpatient revenue, as reported quarterly to the office, to uncompensated care charges.

(D) For the 1993–94 fiscal year, the following definitions shall be used in all computation required in subdivision (c):

(i) (I) For county hospitals and for all hospitals operating in counties with no county hospital, "uncompensated care charges" means the charges related to patients falling within charity-other, gross inpatient revenue-county indigent programs and gross outpatient revenue-county indigent programs, as reported quarterly to the office pursuant to Section 443.32 of the Health and Safety Code.

(II) For noncounty hospitals operating in a county with a county hospital, "uncompensated care charges" means the charges related to patients falling within charity-other and county indigent programs contractual adjustments, as reported quarterly to the office pursuant to Section 443.32 of the Health and Safety Code.

(ii) "Uncompensated care costs" means that amount calculated by applying an overall hospital cost-to-charge ratio, calculated by dividing gross operating expenses less other operating revenue by gross inpatient and outpatient revenue, as reported quarterly to the

office, to uncompensated care charges.

(c) The office shall compute the following data on uncompensated care costs reported by hospitals located within each MISP county and each CMSP county:

(1) The sum of uncompensated care costs for all hospitals.

(2) The sum of uncompensated care costs for all noncounty hospitals.

(3) The sum of uncompensated care costs for all county hospitals.

(4) The uncompensated care costs of each hospital within the county.

(5) The percentage derived from dividing the result of paragraph (2) by the result of paragraph (1).

(6) The percentage derived from dividing the result of paragraph (3) by the result of paragraph (1).

(7) The percentage for each individual hospital derived from dividing each noncounty hospital's uncompensated care cost in paragraph (4) by the amount in paragraph (2).

(d) The office shall transmit to the department the data specified in subdivision (c) within 30 days of the dates specified in paragraph (2) of subdivision (b) and paragraph (3) of subdivision (b) of this section.

SEC. 29. Section 16946 of the Welfare and Institutions Code is amended to read:

16946. (a) The Hospital Services Account portion of each county's allocation pursuant to Sections 16932 and 16941 shall be divided into two amounts by:

(1) Multiplying the Hospital Services Account funding portion by the percentage specified in paragraph (5) of subdivision (c) of Section 16945.

(2) Multiplying the amount of the Hospital Services Account funding portion by the percentage specified in paragraph (6) of subdivision (c) of Section 16945.

(b) The amount of each county's Hospital Services Account funding portion calculated in paragraph (1) of subdivision (a) shall be used for payment or support of services provided on or after July 1, 1989, by noncounty hospitals. Beginning in the 1991–92 fiscal year and annually thereafter, these amounts shall be reduced by dividing each county's amount by the total amount for all counties, multiplied by the sum of twelve million dollars ($12,000,000). This amount for each county shall be further divided into two equal parts, as follows:

(1) (A) The first part shall be allocated to each noncounty hospital within a county in amounts determined by multiplying the percentages specified in paragraph (7) of subdivision (c) of Section 16945 by the amount of the first part, and may be used for payment or support of services provided by noncounty hospitals to any eligible patient treated at any time during the fiscal year of the allocation.

(B) Funds distributed during fiscal years subsequent to the 1989–90 fiscal year shall be accounted for on a quarterly basis.

(C) For the 1989–90 fiscal year, noncounty hospitals shall provide

the demographic data specified in paragraph (2) of subdivision (b) of Section 16918 on a minimum of 5 percent of patients for whom services are paid for in whole or in part by funds allocated pursuant to this paragraph, in addition to any other requirements specified in Section 16918.

(D) For the 1990–91 fiscal year and fiscal years thereafter, noncounty hospitals shall provide data pursuant to the reporting requirements specified in Section 16918 and shall provide posted and individual notices pursuant to Section 16818 for the duration of any quarter during which funds allocated pursuant to this paragraph are used.

(E) Amounts calculated pursuant to this paragraph shall not be reduced or utilized to offset the costs of administering the Hospital Services Account.

(2) (A) (i) The remaining 50 percent of the funds from the Hospital Services Account shall be distributed by the county to hospitals, including those under contract with the county, to maintain access to emergency care and to purchase other necessary hospital services provided during the fiscal year of the allocation.

(ii) In contracting for emergency care with hospitals in neighboring counties, the county shall not impose conditions to accept transfers that it does not impose on hospitals within its own boundaries.

(B) (i) Prior to distributing funds to hospitals, each county shall consult with the hospitals and consider the historic and projected patterns of care provided by hospitals, by geographic catchment areas within both urban and nonurban areas, unique costs associated with treating disproportionate numbers of severely ill indigent patients, and disproportionate losses sustained by hospitals in the provision of care.

(ii) The county shall also consider the patterns of care of its residents provided by Level I trauma care hospitals in contiguous counties and may make proportionate allocations to those trauma centers.

(c) (1) The amount of each county's Hospital Services Account funding portion calculated in paragraph (2) of subdivision (a) may be used for the payment or support of services provided in county hospitals or noncounty hospitals as determined by each county during the fiscal year of the allocation.

(2) Beginning in the 1991–92 fiscal year and annually thereafter, the amount of each county's funding portion calculated pursuant to paragraph (2) of subdivision (a) shall be reduced by an amount that shall be calculated as follows:

(A) Divide each county's amount of funding under paragraph (2) of subdivision (a) by the total amount of funding under that paragraph for all counties.

(B) Multiply the quotient calculated pursuant to subparagraph (A) by the sum of six million dollars ($6,000,000).

(d) As a condition of receiving funds under this section and

Section 16932, each county shall require each county and noncounty hospital to do all of the following:

(1) (A) Maintain the same number and classification of emergency room permits and trauma facility designations as existed on January 1, 1990.

(B) (i) Any hospital that maintained two special permits for basic emergency service on the effective date of this part shall be deemed to have met the requirements of paragraph (1) of subdivision (d), if each of the emergency rooms was located on separate campuses of the hospital and was located not more than two miles from the other emergency room.

(ii) Clause (i) shall apply even if one of the emergency room permits is surrendered after the effective date of this part.

(2) Provide data and reports on the use and expenditure of all funds received. This information shall be in a form and according to procedures specified by the county and the department.

(3) Assure that funds received pursuant to this section are used only for services for persons who cannot afford to pay for those services, and for whom payment will not be made through any private coverage or by any program funded in whole or in part by the federal government.

(e) (1) If a county or noncounty hospital does not comply with this section, the county shall recover funds received by the hospital as follows:

(A) For any violation of paragraph (1) of subdivision (d), the county shall recover that portion of the funds received which equal the ratio of the number of months not in compliance to 12 months.

(B) For any violation of paragraph (2) of subdivision (d), the county shall recover all funds received.

(C) For any violation of paragraph (3) of subdivision (d), the county shall recover the difference between the amount received and the amount for which the hospital can document that the funds were used only for services for persons who cannot afford to pay for those services and for whom payment will not be made through any private coverage or by any program funded in whole or in part by the federal government.

(2) The county may deny further payments required by this section until the hospital demonstrates compliance.

(f) Funds withheld or recovered pursuant to this section may be reallocated and distributed by the county pursuant to paragraph (2) of subdivision (b).

(g) (1) Except as provided in paragraph (2), funds allocated pursuant to paragraph (1) or (2) of subdivision (b) which are not expended because a hospital does not participate shall be redistributed pursuant to paragraph (2) of subdivision (b).

(2) If no noncounty hospitals remain to participate, the county may distribute those unexpended funds pursuant to subdivision (c).

(h) (1) In any county that comprises not more than one-half of 1 percent of the total state population and in which there are a

county hospital and a noncounty hospital with emergency room permits located within two miles of each other, the county hospital may surrender its emergency room permit without any penalty for violation of paragraph (1) of subdivision (d) provided all of the following occur:

(A) The county shall enter into a contractual arrangement with the noncounty hospital.

(B) The county and noncounty hospital shall provide for the availability of at least the same level of emergency services and specialty backup which the county hospital and noncounty hospital provided prior to the surrendering of the emergency room permit.

(C) The county shall establish sufficient capacity, including evening and weekend coverage, in its urgent care clinic and other outpatient clinics to provide for the same or greater level of urgent care and nonemergency visits that were provided in the county hospital emergency department in the calendar year prior to the surrendering of the emergency room permit.

(D) The county shall provide for adequate initial and ongoing public notification and information, in Spanish and English, on the availability of emergency, urgent care, and nonurgent clinic services and how to obtain those services.

(E) The county ensures that there are adequate Spanish translation services and referral services on a 24-hour basis at the noncounty hospital emergency department, and at the county hospital clinics, during their hours of operation.

(2) The department shall annually review the county's compliance with this subdivision. If the department determines that the county is not in compliance with this subdivision, it shall require the county to recover funds and deny further payments pursuant to subdivision (e) until compliance is resumed.

(3) Any county that is permitted under paragraph (1) to surrender its emergency room permit shall continue to fulfill its duties and obligations to provide indigent care according to Section 17000.

SEC. 30. Section 16952 of the Welfare and Institutions Code is amended to read:

16952. (a) (1) Each county shall establish within its emergency medical services fund a Physician Services Account. Each county shall deposit in the Physician Services Account those funds appropriated by the Legislature for the purposes of the Physician Services Account of the fund.

(2) (A) Each county may encumber sufficient funds to reimburse physician losses incurred during the fiscal year for which bills will not be received until after the fiscal year.

(B) Each county shall provide a reasonable basis for its estimate of the necessary amount encumbered.

(C) All funds which are encumbered for a fiscal year shall be expended or disencumbered prior to the submission of the report of actual expenditures required by Section 16806.

(b) Funds deposited in the Physician Services Account in the county emergency medical services fund shall be exempt from the percentage allocations set forth in subdivision (a) of Section 1797.98. However, funds in the county Physician Services Account shall not be used to reimburse for physician services provided by physicians employed by county hospitals.

No physician who provides physician services in a primary care clinic which receives funds from this act shall be eligible for reimbursement from the Physician Services Account for any losses incurred in the provision of those services.

(c) The county physician services account shall be administered by each county, except that a county electing to have the state administer its medically indigent adult program as authorized by Section 16809, may also elect to have its county physician services account administered by the state in accordance with Section 16954.

(d) Costs of administering the account shall be reimbursed by the account, up to 10 percent of the amount of the account.

(e) For purposes of this article "administering agency" means the agency designated by the board of supervisors to administer this article, or the department, in the case of those CSMP counties electing to have the state administer this article on their behalf.

(f) The county Physician Services Account shall be used to reimburse physicians for losses incurred for services provided during the fiscal year of allocation due to patients who cannot afford to pay for those services, and for whom payment will not be made through any private coverage or by any program funded in whole or in part by the federal government.

(g) (1) Reimbursement for losses shall be limited to emergency services as defined in Section 16953, obstetric, and pediatric services as defined in Sections 16905.5 and 16907.5, respectively.

(2) It is the intent of this subdivision to allow reimbursement for all of the following:

(A) All inpatient and outpatient obstetric services which are medically necessary, as determined by the attending physician.

(B) All inpatient and outpatient pediatric services which are medically necessary, as determined by the attending physician.

(h) No physician shall be reimbursed for more than 50 percent of the losses submitted to the administering agency.

SEC. 31. Section 16953 of the Welfare and Institutions Code is amended to read:

16953. (a) For purposes of this chapter "emergency services" means physician services in one of the following:

(1) A general acute care hospital which provides basic or comprehensive emergency services for emergency medical conditions.

(2) A site which was approved by a county prior to January 1, 1990, as a paramedic receiving station for the treatment of emergency patients, for emergency medical conditions.

(3) Beginning in the 1991–92 fiscal year and each fiscal year

thereafter, in a facility which contracted prior to January 1, 1990, with the National Park Service to provide emergency medical services, for emergency medical conditions.

(4) A standby emergency room in a hospital specified in Section 1188.855 of the Health and Safety Code, for emergency medical conditions.

(b) For purposes of this chapter, "emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, which in the absence of immediate medical attention could reasonably be expected to result in any of the following:

(1) Placing the patient's health in serious jeopardy.

(2) Serious impairment to bodily functions.

(3) Serious dysfunction to any bodily organ or part.

(c) It is the intent of this section to allow reimbursement for all inpatient and outpatient services which are necessary for the treatment of an emergency medical condition as certified by the attending physician or other appropriate provider.

SEC. 32. Section 16953.5 of the Welfare and Institutions Code is repealed.

SEC. 33. Section 16954 of the Welfare and Institutions Code is amended to read:

16954. As a condition of having the state administer a CMSP county's Physician Services Account, each CMSP county shall do all of the following:

(a) Contract with the department to administer its county physician services account.

(b) (1) Transfer all funds appropriated to the county for purposes of the county Physician Services Account to the department under such conditions as the department may require.

(2) The department may use funds retained pursuant to this subdivision for purposes of administration of this section.

(c) Agree to uniform operating and reimbursement policies regarding the physician services account which shall be mutually established by the participating counties in conjunction with the department.

SEC. 34. Section 16970 of the Welfare and Institutions Code is amended to read:

16970. (a) As a condition of receiving funds under this chapter, a county shall provide, or arrange and pay for, medically necessary followup treatment, including necessary followup dental treatment and prescription drugs, for any condition detected as part of a child health and disability prevention screen for any child eligible for services under Section 24165.3 of the Health and Safety Code if the child was screened by the county or upon referral by a child health and disability prevention program provider, unless the child is eligible to receive care with no share of cost under the Medi-Cal program or is covered under another publicly funded program, or the services are payable under private insurance coverage.

(b) A county may require that hospitals, physicians, dentists, and other providers receiving funds appropriated pursuant to this part participate in complying with this section, provided that:

(1) Hospitals which receive an allocation pursuant to paragraph (1) of subdivision (b) of Section 16946 and physicians who receive payment from the Physician Services Account of the emergency services fund established pursuant Article 3.5 (commencing with Section 16951) shall be not be required to participate in complying with subdivision (a) as a condition of receiving those allocations or payments.

(2) Only providers which contract with the county and receive funds disbursed from the Unallocated Account pursuant to Article 4 (commencing with Section 16960) or from the discretionary portion of the Physician Services Account pursuant to subdivision (b) of Section 16950, or from the discretionary portion of the Hospital Services Account pursuant to paragraph (2) of subdivision (b) of Section 16946 may be required to participate in complying with subdivision (a).

(c) Dental services provided pursuant to this section shall be at least equal in scope and frequency to dental services available to Medi-Cal eligible children of the same age.

(d) Counties shall implement this section in consultation and coordination with their child health disability prevention programs.

SEC. 35. Section 16980 of the Welfare and Institutions Code is amended to read:

16980. (a) The department shall make initial monthly payments of county allocations made pursuant to Section 16941 upon application of the county assuring that it will comply with the provisions of this part. Payments shall be made on a monthly basis. Payments made beyond April 1, 1990, and February 1 of each subsequent fiscal year, shall be contingent upon the signing of an agreement between the county board of supervisors and the department.

(b) (1) Each county shall include information on programs and services which will receive funding under this chapter as part of its annual plan and budget submitted pursuant to Section 16800. The department shall review and approve this information for compliance with this part.

(2) Beginning with the 1990–91 fiscal year, each county shall include an estimate of, and the costs and funding arrangement for, dental services in its annual plan and budget submitted pursuant to Section 16800.

SEC. 36. Section 16981 of the Welfare and Institutions Code is amended to read:

16981. (a) The department shall conduct fiscal and program reviews to ensure county compliance with the provisions of this part, and shall report annually the results of these reviews to the Legislature. The department may withhold funds, up to the total amount of funds allocated under this chapter, if a county fails to

correct deficiencies in the program after receiving written notice of noncompliance from the department.

(b) The department shall recoup funds which were provided pursuant to this chapter and Chapter 4 (commencing with Section 16930) if they were not encumbered or expended according to the requirements of this chapter or Chapter 4 respectively within the fiscal year according to procedures and reports required pursuant to Section 16806. The funds shall revert to the CHIP Account or Rural Health Services Account respectively.

SEC. 37. Section 16990 of the Welfare and Institutions Code is amended to read:

16990. (a) (1) Any county receiving an allocation pursuant to this chapter and Chapter 4 (commencing with Section 16930) shall, at a minimum, maintain a level of financial support of county funds for health services at least equal to the total of the amounts specified in subparagraphs (A) and (B). The amounts specified in paragraph (1) shall be adjusted on July 1 of each year equal to the growth in the sales tax and vehicle license fees allocated to the trust fund accounts and the county general fund pursuant to Chapter 6 (commencing with Section 17600) of Part 5.

(A) Each of the following counties shall maintain a realignment financial maintenance of effort according to the following schedule:

Jurisdiction	Amount
Alameda	$ 62,950,138
Alpine	150,781
Amador	1,702,152
Butte	8,378,036
Calaveras	1,286,374
Colusa	1,362,787
Contra Costa	31,188,063
Del Norte	1,305,412
El Dorado	5,626,036
Fresno	32,555,212
Glenn	1,368,045
Humboldt	8,995,114
Imperial	8,526,220
Inyo	2,320,718
Kern	23,025,845
Kings	4,310,952
Lake	1,767,837
Lassen	1,555,628
Los Angeles	510,082,064
Madera	3,523,697
Marin	11,349,537
Mariposa	766,751
Mendocino	2,782,024
Merced	4,711,969
Modoc	939,453

Mono	1,673,165
Monterey	11,816,218
Napa	4,751,422
Nevada	2,669,976
Orange	66,846,735
Placer	3,009,967
Plumas	1,143,704
Riverside	33,598,282
Sacramento	33,012,993
San Benito	1,601,614
San Bernardino	27,576,793
San Diego	49,373,333
San Francisco	106,622,954
San Joaquin	12,646,288
San Luis Obispo	5,888,487
San Mateo	21,788,027
Santa Barbara	12,659,559
Santa Clara	47,316,403
Santa Cruz	8,373,710
Shasta	6,521,122
Sierra	327,339
Siskiyou	2,401,825
Solano	8,942,768
Sonoma	16,146,306
Stanislaus	13,403,954
Sutter	4,872,252
Tehama	3,257,915
Trinity	1,599,409
Tulare	8,593,714
Tuolumne	2,525,076
Ventura	17,042,243
Yolo	4,396,875
Yuba	3,083,423
Total	$1,278,014,696

(B) Each of the following counties shall maintain an additional maintenance of effort according to the following schedule:

Jurisdiction	Amount
Alameda	$ 18,792,665
Alpine	18,339
Amador	56,569
Butte	0
Calaveras	12,583
Colusa	0
Contra Costa	8,354,119
Del Norte	33,668
El Dorado	522,999
Fresno	476,243

Glenn	337,822
Humboldt	0
Imperial	299,028
Inyo	0
Kern	3,428,161
Kings	127,484
Lake	112,539
Lassen	0
Los Angeles	36,077,598
Madera	285,161
Marin	2,434,309
Mariposa	38,160
Mendocino	740,217
Merced	619,666
Modoc	0
Mono	366,371
Monterey	3,092,450
Napa	359,593
Nevada	343,187
Orange	4,573,945
Placer	568,920
Plumas	118,953
Riverside	197,812
Sacramento	2,765,180
San Benito	162,812
San Bernardino	4,187,700
San Diego	16,925,600
San Francisco	28,995,054
San Joaquin	4,433,684
San Luis Obispo	3,514,586
San Mateo	6,709,496
Santa Barbara	2,418,096
Santa Clara	16,249,506
Santa Cruz	983,061
Shasta	17,053
Sierra	25,567
Siskiyou	0
Solano	607,622
Sonoma	453,354
Stanislaus	147,660
Sutter	0
Tehama	12,902
Trinity	90,066
Tulare	2,338,470
Tuolumne	373,830
Ventura	3,236,260
Yolo	134,858
Yuba	152,681
Total	$177,718,885

(2) A county may, upon notifying the department of the transfers authorized by this paragraph, reduce the level of financial maintenance of effort required of the county by subparagraph (A) of paragraph (1) by the amount of the funds transferred from the Health Account pursuant to Section 17600.20.

(b) For purposes of this section, if a county desires to use any of its allocation pursuant to this chapter or Chapter 4 (commencing with Section 16930) for programs and costs not reported as part of the plan and budget required by Section 16800, the county, as a condition of using its allocation for these purposes, must maintain an amount of county funding for those programs and costs at least equal to the 1988–89 fiscal year levels.

(c) Moneys received by a county under this chapter shall be accounted for as revenue in the plan and budget which is required pursuant to Section 16800 and shall not be used as county matching funds for any other program requiring a county match.

(d) If a county fails to maintain financial maintenance of effort at least equal to the total of the amounts specified in subparagraphs (A) and (B) of paragraph (1) of subdivision (a), the department shall recover funds allocated to the county under this part sufficient to bring the county into compliance with the financial maintenance of effort provisions. Funds shall be recovered proportionately from the Hospital Services Account, the Physician Services Account, and the Unallocated Account.

(e) The participation fee specified in Section 16809.3 shall not be included in determining a county's compliance with the maintenance of effort provisions of this section.

SEC. 38. Section 16995.2 of the Welfare and Institutions Code is amended to read:

16995.2. Any county receiving funds under this chapter shall maintain at least the same number of outpatient visits in the 1989–90 fiscal year and each fiscal year thereafter, as were provided, either directly or through contract, in the 1988–89 fiscal year.

SEC. 39. Section 27 of Chapter 278 of the Statutes of 1991 is amended to read:

Sec. 27. For the 1991–92 fiscal year, the sum of four hundred ninety-seven million sixty-four thousand dollars ($497,064,000) is appropriated from the Cigarette and Tobacco Products Surtax Fund for the purposes of this act according to the following schedule:

(a) Twenty-seven million two hundred thousand dollars ($27,200,000) from the Health Education Account to the State Department of Education, as follows:

(1) Nine hundred thousand dollars ($900,000) for state administration.

(2) Two million dollars ($2,000,000) for allocation to county offices of education.

(3) Twenty-four million three hundred thousand dollars

($24,300,000) for local assistance.

(b) Ninety-six million six hundred forty-four thousand dollars ($96,644,000) from the Health Education Account to the State Department of Health Services, as follows:

(1) One million one hundred seventy-eight thousand dollars ($1,178,000) for state administration.

(2) Sixteen million dollars ($16,000,000) for a health education media campaign pursuant to Section 24164 of the Health and Safety Code.

(3) Thirty-five million six hundred forty-six thousand dollars ($35,646,000) for health screening services provided through the Child Health Disability Prevention Program contained in Article 3.4 (commencing with Section 320) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code pursuant to Section 24165.3 of the Health and Safety Code.

(4) Fifteen million eight hundred twenty thousand dollars ($15,820,000) for establishment of competitive grants pursuant to Section 24165 of the Health and Safety Code.

(5) Two million three hundred thousand dollars ($2,300,000) for operation of the Tobacco Education Oversight Committee under Section 24162 of the Health and Safety Code and the contract for a systematic and independent evaluation conducted pursuant to Section 24164 of the Health and Safety Code.

(6) Twenty-four million seven hundred thousand dollars ($24,700,000) for allocation to local lead agencies upon the approval of the local plan by the State Department of Health Services pursuant to Section 24165.5 of the Health and Safety Code.

(7) One million dollars ($1,000,000) for expansion of perinatal services pursuant to Section 14148.5 of the Welfare and Institutions Code.

(8) Funds appropriated by this section and allocated pursuant to paragraphs (2), (4), (5), and (6) may be expended or encumbered during the period that Chapter 1.2 (commencing with Section 24160) of Division 20 of the Health and Safety Code is operative without regard to fiscal year.

(c) (1) Twenty-seven million one hundred eighty-eight thousand dollars ($27,188,000) from the Health Education Account for transfer to the Perinatal Insurance Fund created by Section 12699 of the Insurance Code, for the provision of health education and services relating to tobacco use, to subscribers purchasing insurance pursuant to Part 6.3 (commencing with Section 12695) of Division 2 of the Insurance Code.

(2) Any funds appropriated by this section and allocated pursuant to paragraph (1) that are not expended in the 1991–92 fiscal year for those services described in paragraph (1) may be carried forward to subsequent fiscal years until the entire amount has been expended for those services.

(d) Four hundred seventy-four thousand dollars ($474,000) from the Hospital Services Account to the Office of Statewide Health

Planning and Development, for state administration.

(e) One hundred sixty-eight million two hundred ten thousand dollars ($168,210,000) from the Hospital Services Account to the State Department of Health Services, as follows:

(1) One million four hundred twenty-two thousand dollars ($1,422,000) for allocation to children's hospitals pursuant to Chapter 6 (commencing with Section 16996) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(2) Four million nine hundred sixty-one thousand dollars ($4,961,000) for allocation to CMSP counties for expansion of services.

(3) One hundred fifty-three million seven hundred fifty-two thousand dollars ($153,752,000) for allocation to counties participating in the California Health Care for the Indigents Program pursuant to Chapter 5 (commencing with Section 16940) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(4) One million eight hundred seven thousand dollars ($1,807,000) for allocation to counties for uncompensated rural health services under Chapter 4 (commencing with Section 16930) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(5) One million two hundred sixty-eight thousand dollars ($1,268,000) to the State Department of Health Services for state administration.

(6) Five million dollars ($5,000,000) for expansion of perinatal services pursuant to Section 14148.5 of the Welfare and Institutions Code.

(f) Four million nine hundred thirty-nine thousand dollars ($4,939,000) from the Hospital Services Account for transfer to the Perinatal Insurance Fund for the implementation of Part 6.3 (commencing with Section 12695) of Division 2 of the Insurance Code.

(g) Thirty-seven million five hundred eighteen thousand dollars ($37,518,000) from the Physicians Services Account to the State Department of Health Services, as follows:

(1) Three million four hundred thirty-eight thousand dollars ($3,438,000) for clinic services pursuant to Part 6.9 (commencing with Section 1189.101) of Division 1 of the Health and Safety Code.

(2) Eight million six hundred forty-six thousand dollars ($8,646,000) for perinatal services under Section 14148.5 of the Welfare and Institutions Code.

(3) One million nine hundred eighty-six thousand dollars ($1,986,000) for allocation to CMSP counties for expansion of health services.

(4) Twenty-one million eight hundred thirty-one thousand dollars ($21,831,000) for allocation to counties participating in the California Health Care for the Indigents Program pursuant to Chapter 5 (commencing Section 16940) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(5) One million one hundred eighty-nine thousand dollars

($1,189,000) for allocation to counties for rural health services pursuant to Chapter 4 (commencing with Section 16930) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(6) Four hundred twenty-eight thousand dollars ($428,000) for state administration.

(h) Nine million six hundred seventy-six thousand dollars ($9,676,000) from the Physician Services Account for transfer to the Perinatal Insurance Fund for the implementation of Part 6.3 (commencing with Section 12695) of Division 2 of the Insurance Code.

(i) Four million dollars ($4,000,000) from the Physician Services Account to the State Department of Mental Health for local mental health services.

(j) Eighty-one million seven hundred fifteen thousand dollars ($81,715,000) from the Unallocated Account to the State Department of Health Services, as follows:

(1) Thirteen million one hundred twenty-three thousand dollars ($13,123,000) for clinic services pursuant to Part 6.9 (commencing with Section 1189.101) of Division 1 of the Health and Safety Code.

(2) Nine million seven hundred thousand dollars ($9,700,000) for perinatal services under Section 14148.5 of the Welfare and Institutions Code.

(3) Two million four hundred seventy-one thousand dollars ($2,471,000) for allocation to CMSP counties for expansion of health services.

(4) Fifty million seven hundred twenty-one thousand dollars ($50,721,000) for allocation to counties participating in the California Health Care for the Indigents Program pursuant to Chapter 5 (commencing Section 16940) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(5) One million one hundred seventy-seven thousand dollars ($1,177,000) for allocation to counties for uncompensated rural health services under Chapter 4 (commencing with Section 16930) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(6) Four million five hundred twenty-three thousand dollars ($4,523,000) for state administration.

(k) Three million dollars ($3,000,000) from the Unallocated Account for transfer to the Perinatal Insurance Fund for the implementation of Part 6.3 (commencing with Section 12695) of Division 2 of the Insurance Code.

(*l*) Five hundred thousand dollars ($500,000) from the Unallocated Account to the State Department of Education for local assistance pursuant to Section 24167 of the Health and Safety Code.

(m) Thirty-six million dollars ($36,000,000) from the Unallocated Account to the State Department of Mental Health for local mental health services.

SEC. 40. Section 28 of Chapter 278 of the Statutes of 1991 is amended to read:

Sec. 28. For the 1992–93 fiscal year, the sum of four hundred

sixty-nine million eight hundred seventy-six thousand dollars ($469,876,000) is appropriated from the Cigarette and Tobacco Products Surtax Fund for the purposes of this act according to the following schedule:

(a) Twenty-seven million two hundred thousand dollars ($27,200,000) from the Health Education Account to the State Department of Education, as follows:

(1) Nine hundred thousand dollars ($900,000) for state administration.

(2) Two million dollars ($2,000,000) for allocation to county offices of education.

(3) Twenty-four million three hundred thousand dollars ($24,300,000) for local assistance.

(b) Ninety-six million six hundred forty-four thousand dollars ($96,644,000) from the Health Education Account to the State Department of Health Services, as follows:

(1) One million one hundred seventy-eight thousand dollars ($1,178,000) for state administration.

(2) Sixteen million dollars ($16,000,000) for health education media campaign pursuant to Section 24164 of the Health and Safety Code.

(3) Thirty-five million six hundred forty-six thousand dollars ($35,646,000) for health screening services provided through the Child Health Disability Prevention Program contained in Article 3.4 (commencing with Section 320) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code pursuant to Section 24165.3 of the Health and Safety Code.

(4) Fifteen million eight hundred twenty thousand dollars ($15,820,000) for establishment of competitive grants pursuant to Section 24165 of the Health and Safety Code.

(5) Two million three hundred thousand dollars ($2,300,000) for operation of the Tobacco Education Oversight Committee under Section 24162 of the Health and Safety Code and the contract for a systematic and independent evaluation conducted pursuant to Section 24164 of the Health and Safety Code.

(6) Twenty-four million seven hundred thousand dollars ($24,700,000) for allocation to local lead agencies upon the approval of the local plan by the State Department of Health Services pursuant to Section 24165.5 of the Health and Safety Code.

(7) One million dollars ($1,000,000) for expansion of perinatal services pursuant to Section 14148.5 of the Welfare and Institutions Code.

(8) Funds appropriated by this section and allocated pursuant to paragraphs (2), (4), (5), and (6) may be expended or encumbered during the period that Chapter 1.2 (commencing with Section 24160) of Division 20 of the Health and Safety Code is operative without regard to fiscal year.

(c) Four hundred seventy-four thousand dollars ($474,000) from the Hospital Services Account to the Office of Statewide Health

Planning and Development, for state administration.

(d) One hundred sixty-eight million two hundred ten thousand dollars ($168,210,000) from the Hospital Services Account to the State Department of Health Services, as follows:

(1) One million four hundred twenty-two thousand dollars ($1,422,000) for allocation to children's hospitals pursuant to Chapter 6 (commencing with Section 16996) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(2) Four million nine hundred sixty-one thousand dollars ($4,961,000) for allocation to CMSP counties for expansion of services.

(3) One hundred fifty-three million seven hundred fifty-two thousand dollars ($153,752,000) for allocation to counties participating in the California Health Care for the Indigents Program pursuant to Chapter 5 (commencing with Section 16940) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(4) One million eight hundred seven thousand dollars ($1,807,000) for allocation to counties for uncompensated rural health services under Chapter 4 (commencing with Section 16930) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(5) One million two hundred sixty-eight thousand dollars ($1,268,000) to the State Department of Health Services for state administration.

(6) Five million dollars ($5,000,000) for expansion of perinatal services pursuant to Section 14148.5 of the Welfare and Institutions Code.

(e) Four million nine hundred thirty-nine thousand dollars ($4,939,000) from the Hospital Services Account for transfer to the Perinatal Insurance Fund for the implementation of Part 6.3 (commencing with Section 12695) of Division 2 of the Insurance Code.

(f) Thirty-seven million five hundred eighteen thousand dollars ($37,518,000) from the Physicians Services Account to the State Department of Health Services, as follows:

(1) Three million four hundred thirty-eight thousand dollars ($3,438,000) for clinic services pursuant to Part 6.9 (commencing with Section 1189.101) of Division 1 of the Health and Safety Code.

(2) Eight million six hundred forty-six thousand dollars ($8,646,000) for perinatal services under Section 14148.5 of the Welfare and Institutions Code.

(3) One million nine hundred eighty-six thousand dollars ($1,986,000) for allocation to CMSP counties for expansion of health services.

(4) Twenty-one million eight hundred thirty-one thousand dollars ($21,831,000) for allocation to counties participating in the California Health Care for the Indigents Program pursuant to Chapter 5 (commencing Section 16940) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(5) One million one hundred eighty-nine thousand dollars

($1,189,000) for allocation to counties for rural health services pursuant to Chapter 4 (commencing with Section 16930) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(6) Four hundred twenty-eight thousand dollars ($428,000) for state administration.

(g) Thirteen million six hundred seventy-six thousand dollars ($13,676,000) from the Physician Services Account for transfer to the Perinatal Insurance Fund for the implementation of Part 6.3 (commencing with Section 12695) of Division 2 of the Insurance Code.

(h) Eighty-one million seven hundred fifteen thousand dollars ($81,715,000) from the Unallocated Account to the State Department of Health Services, as follows:

(1) Thirteen million one hundred twenty-three thousand dollars ($13,123,000) for clinic services pursuant to Part 6.9 (commencing with Section 1189.101) of Division 1 of the Health and Safety Code.

(2) Nine million seven hundred thousand dollars ($9,700,000) for perinatal services under Section 14148.5 of the Welfare and Institutions Code.

(3) Two million four hundred seventy-one thousand dollars ($2,471,000) for allocation to CMSP counties for expansion of health services.

(4) Fifty million seven hundred twenty-one thousand dollars ($50,721,000) for allocation to counties participating in the California Health Care for the Indigents Program pursuant to Chapter 5 (commencing Section 16940) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(5) One million one hundred seventy-seven thousand dollars ($1,177,000) for allocation to counties for uncompensated rural health services under Chapter 4 (commencing with Section 16930) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(6) Four million five hundred twenty-three thousand dollars ($4,523,000) for state administration.

(i) Thirty-nine million dollars ($39,000,000) from the Unallocated Account for transfer to the Perinatal Insurance Fund for the implementation of Part 6.3 (commencing with Section 12695) of Division 2 of the Insurance Code.

(j) Five hundred thousand dollars ($500,000) from the Unallocated Account to the Department of Education for local assistance pursuant to Section 24167.

SEC. 41. Section 29 of Chapter 278 of the Statutes of 1991 is amended to read:

Sec. 29. For the 1993–94 fiscal year, the sum of four hundred sixty-nine million eight hundred seventy-six thousand dollars ($469,876,000) is appropriated from the Cigarette and Tobacco Products Surtax Fund for the purposes of this act according to the following schedule:

(a) Twenty-seven million two hundred thousand dollars ($27,200,000) from the Health Education Account to the State

Department of Education, as follows:

(1) Nine hundred thousand dollars ($900,000) for state administration.

(2) Two million dollars ($2,000,000) for allocation to county offices of education.

(3) Twenty-four million three hundred thousand dollars ($24,300,000) for local assistance.

(b) Ninety-six million six hundred forty-four thousand dollars ($96,644,000) from the Health Education Account to the State Department of Health Services, as follows:

(1) One million one hundred seventy-eight thousand dollars ($1,178,000) for state administration.

(2) Sixteen million dollars ($16,000,000) for health education media campaign pursuant to Section 24164 of the Health and Safety Code.

(3) Thirty-five million six hundred forty-six thousand dollars ($35,646,000) for health screening services provided through the Child Health Disability Prevention Program contained in Article 3.4 (commencing with Section 320) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code pursuant to Section 24165.3 of the Health and Safety Code.

(4) Fifteen million eight hundred twenty thousand dollars ($15,820,000) for establishment of competitive grants pursuant to Section 24165 of the Health and Safety Code.

(5) Two million three hundred thousand dollars ($2,300,000) for operation of the Tobacco Education Oversight Committee under Section 24162 of the Health and Safety Code and the contract for a systematic and independent evaluation conducted pursuant to Section 24164 of the Health and Safety Code.

(6) Twenty-four million seven hundred thousand dollars ($24,700,000) for allocation to local lead agencies upon the approval of the local plan by the State Department of Health Services pursuant to Section 24165.5 of the Health and Safety Code.

(7) One million dollars ($1,000,000) for expansion of perinatal services pursuant to Section 14148.5 of the Welfare and Institutions Code.

(8) Funds appropriated by this section and allocated pursuant to paragraphs (2), (4), (5), and (6) may be expended or encumbered during the period that Chapter 1.2 (commencing with Section 24160) of Division 20 of the Health and Safety Code is operative without regard to fiscal year.

(c) Four hundred seventy-four thousand dollars ($474,000) from the Hospital Services Account to the Office of Statewide Health Planning and Development, for state administration.

(d) One hundred sixty-eight million two hundred ten thousand dollars ($168,210,000) from the Hospital Services Account to the State Department of Health Services, as follows:

(1) One million four hundred twenty-two thousand dollars ($1,422,000) for allocation to children's hospitals pursuant to Chapter

6 (commencing with Section 16996) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(2) Four million nine hundred sixty-one thousand dollars ($4,961,000) for allocation to CMSP counties for expansion of services.

(3) One hundred fifty-three million seven hundred fifty-two thousand dollars ($153,752,000) for allocation to counties participating in the California Health Care for the Indigents Program pursuant to Chapter 5 (commencing with Section 16940) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(4) One million eight hundred seven thousand dollars ($1,807,000) for allocation to counties for uncompensated rural health services under Chapter 4 (commencing with Section 16930) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(5) One million two hundred sixty-eight thousand dollars ($1,268,000) to the State Department of Health Services for state administration.

(6) Five million dollars ($5,000,000) for expansion of perinatal services pursuant to Section 14148.5 of the Welfare and Institutions Code.

(e) Four million nine hundred thirty-nine thousand dollars ($4,939,000) from the Hospital Services Account for transfer to the Perinatal Insurance Fund for the implementation of Part 6.3 (commencing with Section 12695) of Division 2 of the Insurance Code.

(f) Thirty-seven million five hundred eighteen thousand dollars ($37,518,000) from the Physicians Services Account to the State Department of Health Services, as follows:

(1) Three million four hundred thirty-eight thousand dollars ($3,438,000) for clinic services pursuant to Part 6.9 (commencing with Section 1189.101) of Division 1 of the Health and Safety Code.

(2) Eight million six hundred forty-six thousand dollars ($8,646,000) for perinatal services under Section 14148.5 of the Welfare and Institutions Code.

(3) One million nine hundred eighty-six thousand dollars ($1,986,000) for allocation to CMSP counties for expansion of health services.

(4) Twenty-one million eight hundred thirty-one thousand dollars ($21,831,000) for allocation to counties participating in the California Health Care for the Indigents Program pursuant to Chapter 5 (commencing Section 16940) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(5) One million one hundred eighty-nine thousand dollars ($1,189,000) for allocation to counties for rural health services pursuant to Chapter 4 (commencing with Section 16930) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(6) Four hundred twenty-eight thousand dollars ($428,000) for state administration.

(g) Thirteen million six hundred seventy-six thousand dollars

($13,676,000) from the Physician Services Account for transfer to the Perinatal Insurance Fund for the implementation of Part 6.3 (commencing with Section 12695) of Division 2 of the Insurance Code.

(h) Eighty-one million seven hundred fifteen thousand dollars ($81,715,000) from the Unallocated Account to the State Department of Health Services, as follows:

(1) Thirteen million one hundred twenty-three thousand dollars ($13,123,000) for clinic services pursuant to Part 6.9 (commencing with Section 1189.101) of Division 1 of the Health and Safety Code.

(2) Nine million seven hundred thousand dollars ($9,700,000) for perinatal services under Section 14148.5 of the Welfare and Institutions Code.

(3) Two million four hundred seventy-one thousand dollars ($2,471,000) for allocation to CMSP counties for expansion of health services.

(4) Fifty million seven hundred twenty-one thousand dollars ($50,721,000) for allocation to counties participating in the California Health Care for the Indigents Program pursuant to Chapter 5 (commencing Section 16940) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(5) One million one hundred seventy-seven thousand dollars ($1,177,000) for allocation to counties for uncompensated rural health services under Chapter 4 (commencing with Section 16930) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(6) Four million five hundred twenty-three thousand dollars ($4,523,000) for state administration.

(i) Thirty-nine million dollars ($39,000,000) from the Unallocated Account for transfer to the Perinatal Insurance Fund for the implementation of Part 6.3 (commencing with Section 12695) of Division 2 of the Insurance Code.

(j) Five hundred thousand dollars ($500,000) from the Unallocated Account to the State Department of Education for local assistance pursuant to Section 24167 of the Health and Safety Code.

SEC. 42. Section 34 of Chapter 278 of the Statutes of 1991 is repealed.

SEC. 43. Section 36 of Chapter 278 of the Statutes of 1991 is repealed.

SEC. 44. Section 41 of Chapter 278 of the Statutes of 1991 is amended to read:

Sec. 41. Ten percent of those funds appropriated by any of the following shall be used to award grants pursuant to Section 24168 of the Health and Safety Code, and shall be awarded according to the schedule specified in Section 24168.05 of the Health and Safety Code:

(a) Paragraph (6) of subdivision (b) of Section 10 of Chapter 1331 of the Statutes of 1991, as amended by Section 53 of Chapter 51 of the Statutes of 1990.

(b) Paragraph (3) of subdivision (a) of Section 27 of Chapter 278 of the Statutes of 1991.

(c) Paragraph (3) of subdivision (a) of Section 28 of Chapter 278 of the Statutes of 1991.

(d) Paragraph (3) of subdivision (a) of Section 29 of Chapter 278 of the Statutes of 1991.

SEC. 45. For the 1991–92 fiscal year, the sum of one million six hundred fifty thousand dollars ($1,650,000) from the Hospital Account in the Cigarette and Tobacco Products Surtax Fund is hereby appropriated to the Controller for allocation to the counties participating in the California Health Care for the Indigents Program pursuant to Chapter 5 (commencing with Section 16940) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

SEC. 46. For the 1992–93 fiscal year, the sum of one million six hundred fifty thousand dollars ($1,650,000) from the Hospital Account in the Cigarette and Tobacco Products Surtax Fund is hereby appropriated to the Controller for allocation to the counties participating in the California Health Care for the Indigents Program pursuant to Chapter 5 (commencing with Section 16940) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

SEC. 47. For the 1993–94 fiscal year, the sum of one million six hundred fifty thousand dollars ($1,650,000) from the Hospital Account in the Cigarette and Tobacco Products Surtax Fund is hereby appropriated to the Controller for allocation to the counties participating in the California Health Care for the Indigents Program pursuant to Chapter 5 (commencing with Section 16940) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

SEC. 48. Section 4 of this bill incorporates amendments to Section 1797.98e of the Health and Safety Code proposed by both this bill and SB 946. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, but this bill becomes operative first, (2) each bill amends Section 1797.98e of the Health and Safety Code, and (3) this bill is enacted after SB 946, in which case Section 1797.98e of the Health and Safety Code, as amended by Section 3 of this bill shall remain operative only until the operative date of SB 946, at which time Section 4 of this bill shall become operative.

SEC. 49. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to continue the administration of the allocation of funds appropriated by Chapter 278 of the Statutes of 1991 as intended by the Legislature and to make clarifying technical adjustments for the orderly administration of that act, it is necessary that this act take effect immediately.

CHAPTER 1171

An act to amend Sections 14016.5 and 14154.15 of, and to add Section 14148.9 to, the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. The Legislature finds and declares that the lack of prenatal care leads to costly birth defects, low birth weight babies, and preventable birth complications.

SEC. 2. It is the intent of the Legislature to reduce or prevent infant mortality and morbidity by providing earlier and easier entry of low-income women and infants into perinatal care.

SEC. 3. Section 14016.5 of the Welfare and Institutions Code is amended to read:

14016.5. (a) At the time of determining or redetermining the eligibility of a Medi-Cal or aid to families with dependent children (AFDC) applicant or beneficiary who resides in an area served by a managed health care plan or pilot program in which beneficiaries may enroll, the county shall ensure that each applicant or beneficiary personally attends a presentation at which the applicant or beneficiary is informed of the managed care and fee-for-service options available regarding methods of receiving Medi-Cal benefits.

(b) No later than 30 days following the date a Medi-Cal or AFDC beneficiary or applicant is referred to the presentation described in subdivision (a), the beneficiary or applicant shall indicate his or her choice in writing, as a condition of coverage for Medi-Cal benefits, of either of the following health care options:

(1) To obtain benefits by receiving a monthly Medi-Cal card, which may be used to obtain services from individual providers, that the beneficiary would locate, who choose to provide services to Medi-Cal beneficiaries. Beneficiaries or eligible applicants shall, as a condition for electing this option, identify the provider with whom they have a provider-patient relationship and from whom they will receive Medi-Cal services.

(2) To obtain benefits by enrolling in a prepaid managed care health plan, pilot program, or fee-for-service case management provider contracting with the department that has agreed to make Medi-Cal services readily available to enrolled Medi-Cal beneficiaries.

(c) (1) Commencing January 1, 1994, a Medi-Cal or AFDC beneficiary or eligible applicant who does not make a choice, or who does not certify that he or she has an established relationship with a primary care provider shall be enrolled in an appropriate management care plan, pilot project, or fee-for-service case

management provider providing service within the area in which the beneficiary resides.

(2) If it is not possible to enroll the beneficiary under a Medi-Cal managed care plan or pilot project or a fee-for-service case management provider because of a lack of capacity or availability of participating contractors, the beneficiary shall be provided with a monthly Medi-Cal card and informed about fee-for-service primary care providers who do all of the following:

(A) The providers agree to accept Medi-Cal patients.

(B) The providers provide information about the provider's willingness to accept Medi-Cal patients as described in Section 14016.6.

(C) The providers provide services within the area in which the beneficiary resides.

(d) (1) The managed care plan shall have a valid Medi-Cal contract, adequate capacity, and appropriate staffing to provide health care services to the beneficiary.

(2) The department shall, by regulation establish standards for all of the following:

(A) The maximum distances a beneficiary is required to travel to obtain primary care services from the managed care plan, fee-for-service managed care provider, or pilot project in which the beneficiary is enrolled.

(B) The conditions under which a primary care service site shall be accessible by public transportation.

(C) The conditions under which a managed care plan, fee-for-service managed care provider, or pilot project shall provide nonmedical transportation to a primary care service site.

(3) In developing the standards required by paragraph (2), the department shall take into account, on a geographic basis, the means of transportation used and distances typically traveled by Medi-Cal beneficiaries to obtain fee-for-service primary care services.

(e) To the extent possible, the arrangements for carrying out subdivision (c) shall provide for the equitable distribution of Medi-Cal beneficiaries among participating managed care plans, fee-for-service case management providers, and pilot projects.

(f) Until December 31, 1993, if a Medi-Cal beneficiary or applicant does not make a choice or does not certify that he or she has an established relationship with a primary care provider, the person shall be provided with a monthly Medi-Cal card.

(g) (1) The department shall ensure that Medi-Cal beneficiaries eligible under Title XVI of the Social Security Act are provided with information about options available regarding methods of receiving Medi-Cal benefits as described in subdivision (b).

(2) (A) The director shall waive the requirements of subdivisions (b) and (c) until a means is established to directly provide the presentation described in subdivision (a) to beneficiaries who are eligible for the federal Supplemental Security Income for the Aged, Blind, and Disabled Program (Subchapter 16 (commencing with

Section 1381) of Chapter 7 of Title 42 of the United States Code).

(B) The requirements of subdivisions (b) and (c) shall not apply at any time to beneficiaries whose eligibility under the Supplemental Security Income program is established before January 1, 1994.

(h) In areas where there is no prepaid managed health care plan or pilot program which has contracted with the department to provide services to Medi-Cal beneficiaries, no explicit choice need be made, and the beneficiary or eligible applicant shall receive a monthly Medi-Cal card.

(i) The following definitions contained in this subdivision shall control the construction of this section, unless the context requires otherwise:

(1) "Applicant," "beneficiary," and "eligible applicant," in the case of a family group, means any person with legal authority to make a choice on behalf of dependent family members.

(2) "Fee-for-service case management provider" means a provider enrolled and certified to participate in the Medi-Cal fee-for-service case management program to be developed by the department with the assistance of and in cooperation with California physician providers and other interested provider groups.

(3) "Managed health care plan" and "managed care plan" mean a person or entity operating under a Medi-Cal contract with the department under this chapter or Chapter 8 (commencing with Section 14200) to provide, or arrange for, health care services for Medi-Cal beneficiaries as an alternative to the Medi-Cal fee-for-service program that has a contractual responsibility to manage health care provided to Medi-Cal beneficiaries covered by the contract.

SEC. 4. Section 14148.9 is added to the Welfare and Institutions Code, to read:

14148.9. The department shall provide for the receipt and initial processing of Medi-Cal applications from (a) pregnant women; and (b) children born after September 30, 1983, who have not yet attained 19 years of age, at facilities other than the county welfare department as described in Title XIX of the Social Security Act (42 U.S.C., Sec. 1396 and following).

SEC. 5. Section 14154.15 of the Welfare and Institutions Code is amended to read:

14154.15. (a) Any county may petition the department for an augmentation of its County Administrative Cost Control Plan in order to implement a plan for the outstationing of one or more eligibility workers at alternative sites in order to facilitate receipt and processing of applications for Medi-Cal eligibility for pregnant women, infants and children as specified by Title XIX of the Social Security Act (42 U.S.C. Sec. 1396 and following). In order to participate pursuant to this section, a county welfare department shall petition under this section in accordance with guidelines established by the department. The petition shall include, but not be limited to, information about the need for outstation workers at

alternative sites and the language skills needed by the outstation workers.

(b) In reviewing a petition from a county for an augmentation of its County Administrative Cost Control Plan for outstationing purposes, the department shall take into account the likely success rate of applications processed by the proposed outstationed eligibility workers, the amount of travel and training time required to implement and continue the outstationing plan, and other productivity factors associated with the outstationing plan.

(c) The department may approve those proposed augmentations which, based on its review of the outstationing plan, offer potential to increase eligibility determinations and access to Medi-Cal perinatal services by pregnant women and Medi-Cal services by infants and children specified by Title XIX of the Social Security Act (42 U.S.C., Sec. 1396 and following). The department shall review the approved plan annually to determine if the plan shall be renewed, altered, discontinued, or incorporated into the county administrative funding base.

(d) In addition to any augmentations authorized by this section, the department may, at its discretion, advance administrative funding to a county welfare department for which it approves a augmentation of its County Administrative Cost Control Plan, to cover the initial incremental costs of outstationed eligibility workers under this section.

(e) The department shall conduct a one-time outreach plan to educate county welfare directors, county health officers, and county elected officials on the opportunities and advantages of outstationing Medi-Cal eligibility workers to facilitate access by pregnant women to Medi-Cal perinatal services.

SEC. 6. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1172

An act to amend Sections 7306, 7307, 7310, 7313, 7319, 7321, 7321.5, 7324, 7326, 7330, 7347, 7353, 7396, 7403, 7423, 7423.5, 7425, and 7444.1 of, to amend and repeal Section 7423.5 of, to add Sections 7319.5, 7331.5, and 7421 to, to repeal Section 7386.8 of, the Business and Professions Code, and to amend Section 4 of Chapter 1672 of the Statutes of 1990, relating to barbering and cosmetology.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 7306 of the Business and Professions Code, as added by Chapter 1672 of the Statutes of 1990, is amended to read:

7306. (a) Members shall be appointed for four-year terms expiring June 1 of the fourth year following the year in which the previous term expired. Members shall hold office until the appointment and qualification of their successors or until one year shall have elapsed since the expiration of the term for which they were appointed, whichever first occurs. No person shall serve as a member of the board for more than two consecutive terms.

(b) Vacancies occurring during a term shall be filled for the unexpired term.

(c) The Governor shall appoint three of the public members, one licensed cosmetologist and one licensed barber who shall not be affiliated with any school, as defined in Article 8 (commencing with Section 7362) nor have dual licensure in cosmetology, barbering, or electrolysis, and two other members representing the professions. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint one public member.

(d) Notwithstanding any other provision of law, the Director of Consumer Affairs may make a formal recommendation to the appointing power that a board member be removed for cause, provided that the director must provide prior written notice to the appointing power and to the member stating the basis for the recommendation.

(e) The appointing powers shall give consideration to members of the Board of Barber Examiners and the Board of Cosmetology holding office on June 1, 1992, in making first appointments to the new board, provided those members' terms were scheduled to expire after June 1, 1992, and they would have been eligible for reappointment to the Board of Barber Examiners or the Board of Cosmetology.

(f) The first four members selected as first appointments to the new board shall be appointed for two-year terms expiring June 1 of the second year following the year of their appointment.

SEC. 2. Section 7307 of the Business and Professions Code, as

added by Chapter 1672 of the Statutes of 1990, is amended to read:

7307. The members of the board shall annually elect a president and vice president.

The annual election shall occur at the second meeting after the deadline for new appointments has passed. No board election may occur prior to the annual deadline for appointments except as necessary due to a vacancy in the office of board president.

The vice president shall assume the functions and duties of the president in the event the president is unable to perform those functions and duties.

SEC. 3. Section 7310 of the Business and Professions Code, as added by Chapter 1672 of the Statutes of 1990, is amended to read:

7310. (a) The board shall appoint an executive officer exempt from civil service, who shall not be a board member, who shall exercise the powers and perform the duties delegated by the board and vested in that person by this chapter.

(b) The board shall also have the authority to employ a deputy executive officer.

(c) The board's appointment of an executive officer shall be subject to confirmation by the Director of Consumer Affairs. The director may reject the board's appointment of its executive officer, or may recommend dismissal of the executive officer to the board, provided that the rejection or recommendation for dismissal be for good cause specifically stated to the board in writing.

(d) The executive officer shall employ examiners, inspectors and all other personnel as necessary to carry out this chapter. Their compensation, and all expenses incurred by the board, shall be paid exclusively from the special funds received by the board.

(e) The board shall employ through its executive officer sufficient inspectors to ensure that the health and safety of consumers is met.

(f) The board shall prescribe through its executive officer the qualifications and duties of its employees in accordance with established civil service guidelines and collective bargaining agreements.

SEC. 4. Section 7313 of the Business and Professions Code, as added by Chapter 1672 of the Statutes of 1990, is amended to read:

7313. (a) To assure compliance with the laws and regulations of this chapter, the board's executive officer and authorized representatives shall, except as provided by Section 159.5, have access to, and shall inspect, any establishment or mobile unit at any time in which barbering, cosmetology, or electrolysis are being performed. It is the intent of the Legislature that inspections be conducted on Saturdays and Sundays as well as weekdays, if collective bargaining agreements and civil service provisions permit. Each establishment shall be inspected at least annually for compliance with applicable laws relating to the public health and safety and the conduct and operation of establishments.

(b) To assure compliance with health and safety requirements adopted by the board, the executive officer and authorized

representatives shall, except as provided in Section 159.5, have access to, and shall inspect the premises of, all schools in which the practice of barbering, cosmetology, or electrolysis is performed on the public. Notices of violation shall be issued to schools for violations of regulations governing conditions related to the health and safety of patrons. Each notice shall specify the section violated and a timespan within which the violation must be corrected. A copy of the notice of violation shall be provided to the Council for Private Postsecondary and Vocational Education.

(c) With prior written authorization from the board or its executive officer, any member of the board may enter and visit, in his or her capacity as a board member, any establishment, during business hours or at any time when barbering, cosmetology, or electrolysis is being performed. The visitation by a board member shall be for the purpose of conducting official board business, but shall not be used as a basis for any licensing disciplinary action by the board.

SEC. 5. Section 7319 of the Business and Professions Code, as added by Chapter 1672 of the Statutes of 1990, is amended to read:

7319. The following persons are exempt from this chapter:

(a) All persons authorized by the laws of this state to practice medicine, surgery, dentistry, pharmacy, osteopathy, chiropractic, naturopathy, podiatry, or nursing and acting within the scope of practice for which they are licensed.

(b) Commissioned officers of the United States Army, Navy, Air Force, Marine Corps, members of the United States Public Health Service, and attendants attached to those services when engaged in the actual performance of their official duties.

(c) Persons employed to render barbering, cosmetology, or electrolysis services in the course of and incidental to the business of employers engaged in the theatrical, radio, television or motion picture production industry.

(d) Persons engaged in any practice within its scope when done outside of a licensed establishment, without compensation.

(e) Persons engaged in the administration of hair, skin, or nail products for the exclusive purpose of recommending, demonstrating, or selling those products.

SEC. 6. Section 7319.5 is added to the Business and Professions Code, to read:

7319.5. Students engaged in performing services on the public while enrolled in a school approved by the board shall not be required to be licensed under this chapter.

SEC. 7. Section 7321 of the Business and Professions Code, as added by Chapter 1672 of the Statutes of 1990, is amended to read:

7321. The board shall admit to examination for a license as a cosmetologist to practice cosmetology any person who has made application to the board in proper form, paid the fee required by this chapter, and is qualified as follows:

(a) Is not less than 17 years of age.

(b) Has completed the 10th grade in the public schools of this state or its equivalent.

(c) Is not subject to denial pursuant to Section 480.

(d) Has done any of the following:

(1) Completed a course in cosmetology from a school approved by the board.

(2) Practiced cosmetology as defined in this chapter outside of this state for a period of time equivalent to the study and training of a qualified person who has completed a course in cosmetology from a school the curriculum of which complied with requirements adopted by the board. Each three months of practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1) of this subdivision.

(3) Holds a license as a barber in this state and has completed a cosmetology crossover course in a school approved by the board.

(4) Completed a barbering course in a school approved by the board and has completed a cosmetology crossover course in a school approved by the board.

SEC. 7.5. Section 7321 of the Business and Professions Code, as added by Chapter 1672 of the Statutes of 1990, is amended to read:

7321. The board shall admit to examination for a license as a cosmetologist to practice cosmetology any person who has made application to the board in proper form, paid the fee required by this chapter, and is qualified as follows:

(a) Is not less than 17 years of age.

(b) Has completed the 10th grade in the public schools of this state or its equivalent.

(c) Is not subject to denial pursuant to Section 480.

(d) Has done any of the following:

(1) Completed a course in cosmetology from a school approved by the board.

(2) Practiced cosmetology as defined in this chapter outside of this state for a period of time equivalent to the study and training of a qualified person who has completed a course in cosmetology from a school the curriculum of which complied with requirements adopted by the board. Each three months of practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1) of this subdivision.

(3) Holds a license as a barber in this state and has completed a cosmetology crossover course in a school approved by the board.

(4) Completed a barbering course in a school approved by the board and has completed a cosmetology crossover course in a school approved by the board.

(5) Completed the apprenticeship program in cosmetology specified in Article 4 (commencing with Section 7332).

SEC. 8. Section 7321.5 of the Business and Professions Code, as added by Chapter 1672 of the Statutes of 1990, is amended to read:

7321.5. The board shall admit to examination for a license as a barber to practice barbering, any person who has made application

to the board in proper form, paid the fee required by this chapter, and is qualified as follows:

(a) Is not less than 17 years of age.

(b) Has completed the 10th grade in the public schools of this state or its equivalent.

(c) Is not subject to denial pursuant to Section 480.

(d) Has done any of the following:

(1) Completed a course in barbering from a school approved by the board.

(2) Completed an apprenticeship program in barbering approved by the board as conducted under the provisions of the Shelley-Maloney Apprentice Labor Standards Act of 1939, Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code.

(3) Practiced barbering as defined in this chapter outside of this state for a period of time equivalent to the study and training of a qualified person who has completed a course in barbering from a school the curriculum of which complied with requirements adopted by the board. Each three months of practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1).

(4) Holds a license as a cosmetologist in this state and has completed a barber crossover course in a school approved by the board.

(5) Completed a cosmetology course in a school approved by the board and has completed a barber crossover course in a school approved by the board.

SEC. 9. Section 7324 of the Business and Professions Code, as added by Chapter 1672 of the Statutes of 1990, is amended to read:

7324. The board shall admit to examination for a license as an esthetician to practice skin care, any person who has made application to the board in proper form, paid the fee required by this chapter, and is qualified as follows:

(a) Is not less than 17 years of age.

(b) Has completed the 10th grade in the public schools of this state or its equivalent.

(c) Is not subject to denial pursuant to Section 480.

(d) Has done any of the following:

(1) Completed a course in skin care from a school approved by the board.

(2) Practiced skin care, as defined in this chapter, outside of this state for a period of time equivalent to the study and training of a qualified person who has completed a course in skin care from a school the curriculum of which complied with requirements adopted by the board. Each three months of practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1).

SEC. 9.5. Section 7324 of the Business and Professions Code, as added by Chapter 1672 of the Statutes of 1990, is amended to read:

7324. The board shall admit to examination for a license as an

esthetician to practice skin care, any person who has made application to the board in proper form, paid the fee required by this chapter, and is qualified as follows:

(a) Is not less than 17 years of age.

(b) Has completed the 10th grade in the public schools of this state or its equivalent.

(c) Is not subject to denial pursuant to Section 480.

(d) Has done any of the following:

(1) Completed a course in skin care from a school approved by the board.

(2) Practiced skin care, as defined in this chapter, outside of this state for a period of time equivalent to the study and training of a qualified person who has completed a course in skin care from a school the curriculum of which complied with requirements adopted by the board. Each three months of practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1).

(3) Completed the apprenticeship program in skin care specified in Article 4 (commencing with Section 7332).

SEC. 10. Section 7326 of the Business and Professions Code, as added by Chapter 1672 of the Statutes of 1990, is amended to read:

7326. The board shall admit to examination for a license as a manicurist to practice nail care, any person who has made application to the board in proper form, paid the fee required by this chapter, and is qualified as follows:

(a) Is not less than 17 years of age.

(b) Has completed the 10th grade in the public schools of this state or its equivalent.

(c) Is not subject to denial pursuant to Section 480.

(d) Has done any of the following:

(1) Completed a course in nail care from a school approved by the board.

(2) Practiced nail care, as defined in this chapter, outside of this state for a period of time equivalent to the study and training of a qualified person who has completed a course in nail care from a school the curriculum of which complied with requirements adopted by the board. Each three months of practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1).

SEC. 10.5. Section 7326 of the Business and Professions Code, as added by Chapter 1672 of the Statutes of 1990, is amended to read:

7326. The board shall admit to examination for a license as a manicurist to practice nail care, any person who has made application to the board in proper form, paid the fee required by this chapter, and is qualified as follows:

(a) Is not less than 17 years of age.

(b) Has completed the 10th grade in the public schools of this state or its equivalent.

(c) Is not subject to denial pursuant to Section 480.

(d) Has done any of the following:

(1) Completed a course in nail care from a school approved by the board.

(2) Practiced nail care, as defined in this chapter, outside of this state for a period of time equivalent to the study and training of a qualified person who has completed a course in nail care from a school the curriculum of which complied with requirements adopted by the board. Each three months of practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1).

(3) Completed the apprenticeship program in nail care specified in Article 4 (commencing with Section 7332).

SEC. 11. Section 7330 of the Business and Professions Code, as added by Chapter 1672 of the Statutes of 1990, is amended to read:

7330. The board shall admit to examination for a license as an electrologist to practice electrolysis, any person who has made application to the board in proper form, paid the fee required by this chapter, and is qualified as follows:

(a) Is not less than 17 years of age.

(b) Has completed the 12th grade or an accredited senior high school course of study in public schools of this state or its equivalent.

(c) Is not subject to denial pursuant to Section 480.

(d) Has done any of the following:

(1) Completed a course of training in electrolysis from a school approved by the board.

(2) Practiced electrolysis, as defined in this chapter, for a period of time equivalent to the study and training of a qualified person who has completed a course in electrolysis from a school the curriculum of which complied with requirements adopted by the board. Each three months of practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1).

SEC. 11.5. Section 7330 of the Business and Professions Code, as added by Chapter 1672 of the Statutes of 1990, is amended to read:

7330. The board shall admit to examination for a license as an electrologist to practice electrolysis, any person who has made application to the board in proper form, paid the fee required by this chapter, and is qualified as follows:

(a) Is not less than 17 years of age.

(b) Has completed the 12th grade or an accredited senior high school course of study in public schools of this state or its equivalent.

(c) Is not subject to denial pursuant to Section 480.

(d) Has done any of the following:

(1) Completed a course of training in electrolysis from a school approved by the board.

(2) Practiced electrolysis, as defined in this chapter, for a period of 18 months outside of this state within the time equivalent to the study and training of a qualified person who has completed a course in electrolysis from a school the curriculum of which complied with requirements adopted by the board. Each three months of practice

shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1).

(3) Competed the apprenticeship program in electrology specified in Article 4 (commencing with Section 7332).

SEC. 12. Section 7331.5 is added to the Business and Professions Code, to read:

7331.5. It is the intent of the Legislature that no law which may hereafter be enacted increasing the number of hours of training in a school approved by the board or the length of training in an apprenticeship program approved by the board which are required for eligibility for any examination shall apply to a person who on the effective date of the law is a student in, or has completed the prescribed course of study in, a school or is an apprentice in a program. This section shall not apply to a person who does not apply for and take the first examination for which he or she is eligible occurring after the effective date of the law, unless compliance with this requirement is waived by the board for good cause as defined in regulations.

SEC. 13. Section 7347 of the Business and Professions Code, as added by Chapter 1672 of the Statutes of 1990, is amended to read:

7347. Any person, firm or corporation desiring to operate an establishment shall make an application to the board for a license accompanied by the fee prescribed by this chapter. The applicant, if an individual, or each officer, director, and partner, if the applicant is other than an individual, shall not have committed acts or crimes which are grounds for denial of licensure in effect at the time the new application is submitted pursuant to Section 480. A license issued pursuant to this section shall authorize the operation of the establishment only at the location for which the license is issued. Operation of the establishment at any other location shall be unlawful unless a license for the new location has been obtained upon compliance with this section, applicable to the issuance of a license in the first instance.

SEC. 14. Section 7353 of the Business and Professions Code, as added by Chapter 1672 of the Statutes of 1990, is amended to read:

7353. Within 90 days after issuance of the establishment license, the board or its agents or assistants shall inspect the establishment for compliance with the applicable requirements of this chapter and the applicable rules and regulations of the board adopted pursuant to this chapter. Each establishment shall be inspected at least annually for compliance with applicable laws relating to the public health and safety and the conduct and operation of establishments.

SEC. 15. Section 7396 of the Business and Professions Code, as added by Chapter 1672 of the Statutes of 1990, is amended to read:

7396. The form and content of a license issued by the board shall be determined in accordance with Section 164.

The license shall prominently state that the holder is licensed as a barber, cosmetologist, esthetician, manicurist, electrologist, apprentice, barber instructor, cosmetology instructor, or

establishment and shall contain a photograph of the licensee.

SEC. 16. Section 7403 of the Business and Professions Code, as added by Chapter 1672 of the Statutes of 1990, is amended to read:

7403. (a) The board may revoke, suspend, or deny at any time any license required by this chapter on any of the grounds for disciplinary action provided in this article. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

(b) In any case in which the administrative law judge recommends that the board revoke, suspend or deny a license, the administrative law judge may, upon presentation of suitable proof, order the licensee to pay the board the reasonable costs of the investigation and adjudication of the case. For purposes of this section, "costs" include charges by the board for investigating the case, charges incurred by the office of the Attorney General for investigating and presenting the case, and charges incurred by the Office of Administrative Hearings for hearing the case and issuing a proposed decision.

(c) The costs to be assessed shall be fixed by the administrative law judge and shall not, in any event, be increased by the board. When the board does not adopt a proposed decision and remands the case to an administrative law judge, the administrative law judge shall not increase the amount of any costs assessed in the proposed decision.

(d) The board may enforce the order for payment in the superior court in the county where the administrative hearing was held. This right of enforcement shall be in addition to any other rights the board may have as to any licensee directed to pay costs.

(e) In any judicial action for the recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(f) Notwithstanding any other provision of law, all costs recovered under this section shall be deposited in the board's contingent fund as a scheduled reimbursement in the fiscal year in which the costs are actually recovered.

SEC. 17. Section 7421 is added to the Business and Professions Code, to read:

7421. The fees shall be set by the board, within the limits set forth in this article, in amounts necessary to cover the expenses of the board in performing its duties under this chapter.

SEC. 18. Section 7423 of the Business and Professions Code, as added by Chapter 1672 of the Statutes of 1990, is amended to read:

7423. The amounts of the fees required by this chapter relating to licenses for individual practitioners are as follows:

(a) Cosmetologist application, examination and initial license fee shall be not more than fifty dollars ($50).

(b) Esthetician application, examination and initial license fee

shall be not more than forty dollars ($40).

(c) Manicurist application, examination and initial license fee shall be not more than thirty-five dollars ($35).

(d) Barber application, examination and initial license fee shall be not more than fifty dollars ($50).

(e) Electrologist application, examination and initial license fee shall be not more than fifty dollars ($50).

(f) Apprentice application and license fee shall be not more than twenty-five dollars ($25).

(g) The license renewal fee for individual practitioner licenses that are subject to renewal shall be not more than fifty dollars ($50).

(h) The license renewal delinquency fee shall be 50 percent of the renewal fee in effect on the date of renewal, notwithstanding Section 163.5.

SEC. 18.5. Section 7423 of the Business and Professions Code, as added by Chapter 1672 of the Statutes of 1990, is amended to read:

7423. The amounts of the fees required by this chapter relating to licenses for individual practitioners are as follows:

(a) Cosmetologist application, examination and initial license fee shall be not more than fifty dollars ($50).

(b) Esthetician application, examination and initial license fee shall be not more than forty dollars ($40).

(c) Manicurist application, examination and initial license fee shall be not more than thirty-five dollars ($35).

(d) Barber application, examination and initial license fee shall be not more than fifty dollars ($50).

(e) Electrologist application, examination and initial license fee shall be not more than fifty dollars ($50).

(f) Apprentice application and license fee shall be not more than twenty-five dollars ($25).

(g) The license renewal fee for individual practitioner licenses that are subject to renewal shall be not more than fifty dollars ($50).

(h) The license renewal delinquency fee shall be 50 percent of the renewal fee in effect on the date of renewal, notwithstanding Section 163.5.

(i) Any preapplication fee shall be established by the board in an amount sufficient to cover the costs of processing and administration of the preapplication.

(j) This section shall become operative on July 1, 1992.

SEC. 19. Section 7423.5 of the Business and Professions Code, as added by Chapter 1672 of the Statutes of 1990, is amended to read:

7423.5. The amounts of the fees payable under this chapter relating to licenses for instructor are as follows:

(a) The fee for instructor application, examination, and initial license shall be not more than fifty dollars ($50).

(b) The license renewal fee shall be not more than fifty dollars ($50).

(c) The license renewal delinquency fee shall be 50 percent of the renewal fee in effect on the date of renewal, notwithstanding Section

163.5.

This section shall become inoperative on July 1, 1997, and as of January 1, 1998, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1998, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 20. Section 7425 of the Business and Professions Code, as added by Chapter 1672 of the Statutes of 1990, is amended to read:

7425. The amounts of the fees payable under this chapter relating to licenses to operate a mobile unit are as follows:

(a) The application fee shall be not more than fifty dollars ($50).

(b) The initial inspection and license fee shall not be more than one hundred dollars ($100).

(c) The renewal fee shall be not more than forty dollars ($40).

(d) The delinquency fee shall be 50 percent of the renewal fee in effect on the date of renewal, notwithstanding Section 163.5.

SEC. 21. Section 7386.8 of the Business and Professions Code is repealed.

SEC. 22. Section 7444.1 of the Business and Professions Code is amended to read:

7444.1. The amount of the fees payable under this chapter relating to licenses to operate a mobile cosmetology unit are as follows:

(a) The application fee shall be not more than fifty dollars ($50).

(b) The initial inspection and license fee shall be not more than one hundred dollars ($100).

(c) The renewal fee shall be not more than thirty dollars ($30).

(d) The delinquency fee shall be 50 percent of the renewal fee in effect on the date of renewal.

SEC. 23. Section 4 of Chapter 1672 of the Statutes of 1990 is amended to read:

Sec. 4. The Board of Barbering and Cosmetology shall retain the authority previously vested with the Board of Barber Examiners and the Board of Cosmetology to conduct all investigations, inquiries, disciplinary actions or proceedings unresolved under the Board of Barber Examiners and Board of Cosmetology authority and to enforce all disciplinary decisions of both boards.

SEC. 24. The Board of Barbering and Cosmetology shall, on or before July 1, 1992, report to the appropriate policy committees of both houses of the Legislature on the inspection program required pursuant to Sections 7313 and 7353 of the Business and Professions Code. That report shall indicate whether legislation will be required in order to fund additional inspector positions.

SEC. 25. Section 7.5 of this bill incorporates amendments to Section 7321 of the Business and Professions Code proposed by both this bill and AB 223. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, but this bill becomes operative first, (2) each bill amends Section 7321 of the Business and Professions Code, and (3) this bill is enacted after AB 223, in which case Section 7321 of the Business and Professions

Code, as amended by Section 7 of this bill, shall remain operative only until the operative date of AB 223, at which time Section 7.5 of this bill shall become operative.

SEC. 26. Section 9.5 of this bill incorporates amendments to Section 7324 of the Business and Professions Code proposed by both this bill and AB 223. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, but this bill becomes operative first, (2) each bill amends Section 7324 of the Business and Professions Code, and (3) this bill is enacted after AB 223, in which case Section 7324 of the Business and Professions Code, as amended by Section 9 of this bill, shall remain operative only until the operative date of AB 223, at which time Section 9.5 of this bill shall become operative.

SEC. 27. Section 10.5 of this bill incorporates amendments to Section 7326 of the Business and Professions Code proposed by both this bill and AB 223. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, but this bill becomes operative first, (2) each bill amends Section 7326 of the Business and Professions Code, and (3) this bill is enacted after AB 223, in which case Section 7326 of the Business and Professions Code, as amended by Section 10 of this bill, shall remain operative only until the operative date of AB 223, at which time Section 10.5 of this bill shall become operative.

SEC. 28. Section 11.5 of this bill incorporates amendments to Section 7330 of the Business and Professions Code proposed by both this bill and AB 223. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, but this bill becomes operative first, (2) each bill amends Section 7330 of the Business and Professions Code, and (3) this bill is enacted after AB 223, in which case Section 7330 of the Business and Professions Code, as amended by Section 11 of this bill, shall remain operative only until the operative date of AB 223, at which time Section 11.5 of this bill shall become operative.

SEC. 29. Section 18.5 of this bill incorporates amendments to Section 7423 of the Business and Professions Code proposed by both this bill and SB 985. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2) each bill amends Section 7423 of the Business and Professions Code, and (3) this bill is enacted after SB 985, in which case Section 18 of this bill shall not become operative.

SEC. 30. Except for Sections 21, 22, and 24, this act shall become operative on July 1, 1992.

CHAPTER 1173

An act to amend Sections 25143.2, 25143.9, 25178, 25250.1, 25250.4, and 25250.15 of, to add Section 25162.1 to, and to repeal Section 25176 of, the Health and Safety Code, relating to hazardous waste.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 25143.2 of the Health and Safety Code is amended to read:

25143.2. (a) Recyclable materials are subject to the requirements of this chapter which apply to hazardous wastes, unless the department issues a variance pursuant to Section 25143, or except as provided otherwise in subdivision (b), (c), or (d) or the regulations adopted by the department pursuant to Sections 25150 and 25151. For the purposes of this section, recyclable material does not include infectious waste.

(b) Except as otherwise provided in subdivisions (e), (f) and (g), recyclable material which is managed in accordance with Section 25143.9 and is or will be recycled by any of the following methods shall be excluded from classification as a waste:

(1) Used or reused as an ingredient in an industrial process to make a product, if the material is not being reclaimed.

(2) Used or reused as a safe and effective substitute for commercial products, if the material is not being reclaimed.

(3) Returned to the original process from which the material was generated, without first being reclaimed, if the material is returned as a substitute for raw material feedstock, and the process uses raw materials as principal feedstocks.

(c) Except as otherwise provided in subdivisions (b), (d), and (e), any recyclable material may be recycled at a facility which is not authorized by the department pursuant to the applicable hazardous waste facilities permit requirements of Article 9 (commencing with Section 25200) if either of the following requirements is met:

(1) The material is a petroleum refinery waste containing oil which is converted into petroleum coke at the same facility at which the waste was generated, unless the resulting coke product would be identified as a hazardous waste under this chapter. A waste subject to this paragraph is exempt from this chapter to the same extent the waste is exempt from subsections (q), (r), and (s) of Section 6924 of Title 42 of the United States Code.

(2) The material meets all of the following conditions:

(A) The material is recycled and used at the same facility at which the material was generated.

(B) The material is recycled within 90 days of its generation.

(C) The material is managed in accordance with all applicable

requirements for generators of hazardous wastes under this chapter and regulations adopted by the department.

(d) Except as otherwise provided in subdivisions (e), (f), (g), and (h), recyclable material which meets the definition of a non-RCRA hazardous waste in Section 25117.9, is managed in accordance with Section 25143.9, and meets or will meet any of the following requirements is excluded from classification as a waste:

(1) The material can be shown to be recycled and used at the site where the material was generated.

(2) The material qualifies as one or more of the following:

(A) The material is a product, which has been processed from a hazardous waste, or which has been handled, at a facility authorized by the department pursuant to the facility permit requirements of Article 9 (commencing with Section 25200) to process or handle the material, if the product meets both of the following conditions:

(i) The product does not contain constituents, other than those for which the material is being recycled which render the material hazardous under regulations adopted pursuant to Sections 25140 and 25141.

(ii) The product is used, or distributed or sold for use, in a manner for which the product is commonly used.

(B) The material is a petroleum refinery waste containing oil which is converted into petroleum coke at the same facility at which the waste was generated, unless the resulting coke product would be identified as a hazardous waste under this chapter.

(C) The material is oily waste, used oil, or spent nonhalogenated solvent which is managed by the owner or operator of a refinery which is processing primarily crude oil and which is not subject to permit requirements for recycling of used oil, or a public utility, or a corporate subsidiary, corporate parent, or subsidiary of the same corporate parent of the refinery or public utility, and which meets all of the following requirements:

(i) The material is either burned in an industrial boiler, an industrial furnace, an incinerator, or a utility boiler which complies with all applicable federal and state laws, or is recombined with normal process streams to produce a fuel.

(ii) The material is managed at the site where it was generated; managed at another site owned or operated by the generator, a corporate subsidiary of the generator, a subsidiary of the same entity of which the generator is a subsidiary, or the corporate parent of the generator; or, if the material is generated in the course of oil or gas exploration or production, managed by an unrelated refinery receiving the waste through a common pipeline.

(iii) The material does not contain constituents other than those for which the material is being recycled which render the material hazardous under regulations adopted pursuant to Sections 25140 and 25141.

(D) The material is a fuel which is removed from a fuel tank, is either fuel contaminated with water or by nonhazardous debris, of

not more than 2 percent by weight, including, but not limited to, rust or sand, or a fuel unintentionally mixed with an unused petroleum product, and is transferred to, and processed into a fuel at, a refinery which processes primarily crude oil.

(3) The material is transported between locations operated by the same person who generated the material, if the material is recycled at the last location operated by that person and all of the conditions of clauses (i) to (vi), inclusive, of subparagraph (A) of paragraph (4) are met. If requested by the department or by any law enforcement official, a person handling material subject to this paragraph shall, within 15 days of the request, supply documentation to show that the requirements of this paragraph have been satisfied.

(4) (A) The material is transferred between locations operated by the same person who generated the material, if the material is to be recycled at an authorized offsite hazardous waste facility and if all of the following conditions are met:

(i) The material is transferred by employees of that person in vehicles under the control of that person or by a registered hazardous waste hauler under contract to that person.

(ii) The material is not handled at any interim location.

(iii) The material is not held at any publicly accessible interim location for more than four hours unless required by other provisions of law.

(iv) The material is managed in compliance with the requirements of this chapter and the regulations adopted pursuant to this chapter prior to the initial transportation of the material and after the receipt of the material at the last location operated by that person. Upon receipt of the material at the last location operated by that person, the material shall be deemed to have been generated at that location.

(v) All of the following information is maintained in an operating log at the last location operated by that person:

(I) The name and address of each generator location contributing material to each shipment received.

(II) The quantity and type of material contributed by each generator to each shipment of material.

(III) The destination and intended disposition of all material shipped offsite or received.

(IV) The date of each shipment received or sent offsite.

The log shall be kept for at least three years after receipt of the material at that location.

(vi) If requested by the department, or by any law enforcement official, a person handling material subject to this paragraph shall, within 15 days of the request, supply documentation to show that the requirements of this paragraph have been satisfied.

(B) For purposes of paragraph (3) and subparagraph (A) of paragraph (4), "person" also includes corporate subsidiary, corporate parent, or subsidiary of the same corporate parent.

(C) Persons which are a corporate subsidiary, corporate parent,

or subsidiary of the same corporate parent, and which manage recyclable materials under paragraph (3) or subparagraph (A) of paragraph (4), are jointly and severally liable for any activities excluded from regulation pursuant to this section.

(5) The material is a container which meets all of the following requirements:

(A) The container was last used to hold a hazardous material acquired from a supplier of hazardous materials.

(B) The container is empty pursuant to the standards set forth in Section 261.7 of Title 40 of the Code of Federal Regulations.

(C) The container is returned to a supplier of hazardous materials for the purpose of being refilled.

(D) The container is not treated prior to being returned to the supplier of hazardous materials, except as provided in regulations adopted by the department.

(E) The container is not treated by the supplier of hazardous materials except by rinsing.

(F) The container is refilled by the supplier with hazardous material which is compatible with the hazardous material which the container previously held unless the container has been adequately rinsed.

(G) The container is handled in accordance with any regulations adopted by the department to implement this paragraph.

(6) The material is used or reused as an ingredient in an industrial process to make a product, if the material is not being treated before introduction to that process except by one or more of the following procedures, and if any discharges to air from the following procedures do not contain constituents which are hazardous wastes pursuant to the department's regulations and comply with applicable air pollution control laws:

(A) Filtering.

(B) Screening.

(C) Sorting.

(D) Sieving.

(E) Grinding.

(F) Physical or gravity separation, without chemical additive or the addition of external heat.

(G) pH adjustment.

(H) Viscosity adjustment.

(7) The material is used or reused as a safe and effective substitute for commercial products, if the material is not being treated except by one or more of the following procedures, and if any discharges to air from the following procedures do not contain constituents which are hazardous wastes pursuant to the department's regulations and comply with applicable air pollution control laws:

(A) Filtering.

(B) Screening.

(C) Sorting.

(D) Sieving.

(E) Grinding.

(F) Physical or gravity separation, without any chemical additive or the addition of external heat.

(G) pH adjustment.

(H) Viscosity adjustment.

(e) Notwithstanding subdivisions (b), (c), and (d), all of the following recyclable materials are hazardous wastes and subject to full regulation under this chapter, even if the recycling involves use, reuse, or return to the original process as described in subdivision (b), or even if the recycling involves activities or materials described in subdivisions (c) and (d):

(1) Materials which are a RCRA hazardous waste, as defined in Section 25120.2, used in a manner constituting disposal, or used to produce products that are applied to the land including, but not limited to, materials used to produce a fertilizer, soil amendment, agricultural mineral, or an auxiliary soil and plant substance.

(2) Materials which are a non-RCRA hazardous waste, as defined in Section 25117.9, and used in a manner constituting disposal or used to produce products that are applied to the land as a fertilizer, soil amendment, agricultural mineral, or an auxiliary soil and plant substance. The department may adopt regulations to exclude materials from regulation pursuant to this paragraph.

(3) Materials burned for energy recovery, used to produce a fuel, or contained in fuels, except materials exempted under paragraph (1) of subdivision (c) or excluded under subparagraph (B), (C), or (D) of paragraph (2) of subdivision (d).

(4) Materials accumulated speculatively.

(5) Materials determined to be inherently wastelike pursuant to regulations adopted by the department.

(6) Used or spent etchants, stripping solutions, and plating solutions, which are transported to an offsite facility operated by a person other than the generator and which are either of the following:

(A) The etchants or solutions are no longer fit for their originally purchased or manufactured purpose.

(B) If the etchants or solutions are reused, the generator and the user cannot document that they are used for their originally purchased or manufactured purpose without prior treatment.

(7) Used oil, as defined in subdivision (a) of Section 25250.1, unless one of the following applies:

(A) The used oil is excluded under subparagraph (B) or (C) of paragraph (2) of subdivision (d) or under paragraph (4) of subdivision (d) of this section, under subdivision (e) of Section 25250.1, or under Section 25250.3.

(B) The used oil is used or reused on the site where it was generated or is excluded under paragraph (3) of subdivision (d) of this section and, in either situation, is not any of the following:

(i) Used in a manner constituting disposal or used to produce a product that is applied to land.

(ii) Burned for energy recovery or used to produce a fuel, unless the used oil is excluded under subparagraph (B) or (C) of paragraph (2) of subdivision (d).

(iii) Accumulated speculatively.

(iv) Determined to be inherently wastelike pursuant to regulations adopted by the department.

(f) (1) Any person who manages a recyclable material under a claim that the material qualifies for exclusion or exemption pursuant to this section shall provide, upon request, to the department, the Environmental Protection Agency, or any local agency or official authorized to bring an action as provided in Section 25180, all of the following information:

(A) The name, street and mailing address, and telephone number of the owner or operator of any facility that manages the material.

(B) Any other information related to that person's management of the material requested by the department, the Environmental Protection Agency, or the authorized local agency or official.

(2) Any person claiming an exclusion or an exemption shall maintain adequate records to demonstrate to the satisfaction of the requesting agency or official that there is a known market or disposition for the material, and that the requirements of any exemption or exclusion pursuant to this section are met.

(3) For purposes of determining that the conditions for exclusion from classification as a waste pursuant to this section are met, any person, facility, site, or vehicle engaged in the management of a material under a claim that the material is excluded from classification as a waste pursuant to this section shall be subject to Section 25185.

(g) For purposes of Chapter 6.8 (commencing with Section 25300), recyclable materials excluded from classification as a waste pursuant to this section are not excluded from the definition of hazardous substances in subdivision (g) of Section 25316.

(h) Used oil that fails to qualify for exclusion pursuant to subdivision (d) solely because the used oil is a RCRA hazardous waste, may be managed pursuant to subdivision (d) if the used oil is also managed in accordance with Part 260 (commencing with Section 260.1) to Part 270 (commencing with Section 270.1), inclusive, of Subchapter I of Chapter 1 of Title 40 of the Code of Federal Regulations.

SEC. 1.5. Section 25143.2 of the Health and Safety Code is amended to read:

25143.2. (a) Recyclable materials are subject to the requirements of this chapter and the regulations adopted by the department to implement this chapter which apply to hazardous wastes, unless the department issues a variance pursuant to Section 25143, or except as provided otherwise in subdivision (b), (c), or (d) or the regulations adopted by the department pursuant to Sections 25150 and 25151. For the purposes of this section, recyclable material does not include infectious waste.

(b) Except as otherwise provided in subdivisions (e), (f) and (g), recyclable material which is managed in accordance with Section 25143.9 and is or will be recycled by any of the following methods shall be excluded from classification as a waste:

(1) Used or reused as an ingredient in an industrial process to make a product, if the material is not being reclaimed.

(2) Used or reused as a safe and effective substitute for commercial products, if the material is not being reclaimed.

(3) Returned to the original process from which the material was generated, without first being reclaimed, if the material is returned as a substitute for raw material feedstock, and the process uses raw materials as principal feedstocks.

(c) Except as otherwise provided in subdivision (e), any recyclable material may be recycled at a facility which is not authorized by the department pursuant to the applicable hazardous waste facilities permit requirements of Article 9 (commencing with Section 25200) if either of the following requirements is met:

(1) The material is a petroleum refinery waste containing oil which is converted into petroleum coke at the same facility at which the waste was generated, unless the resulting coke product would be identified as a hazardous waste under this chapter. A waste subject to this paragraph is exempt from this chapter to the same extent the waste is exempt from subsections (q), (r), and (s) of Section 6924 of Title 42 of the United States Code.

(2) The material meets all of the following conditions:

(A) The material is recycled and used at the same facility at which the material was generated.

(B) The material is recycled within 90 days of its generation.

(C) The material is managed in accordance with all applicable requirements for generators of hazardous wastes under this chapter and regulations adopted by the department.

(d) Except as otherwise provided in subdivisions (e), (f), (g), and (h), recyclable material which meets the definition of a non-RCRA hazardous waste in Section 25117.9, is managed in accordance with Section 25143.9, and meets or will meet any of the following requirements is excluded from classification as a waste:

(1) The material can be shown to be recycled and used at the site where the material was generated.

(2) The material qualifies as one or more of the following:

(A) The material is a product, which has been processed from a hazardous waste, or which has been handled, at a facility authorized by the department pursuant to the facility permit requirements of Article 9 (commencing with Section 25200) to process or handle the material, if the product meets both of the following conditions:

(i) The product does not contain constituents, other than those for which the material is being recycled which render the material hazardous under regulations adopted pursuant to Sections 25140 and 25141.

(ii) The product is used, or distributed or sold for use, in a manner

for which the product is commonly used.

(B) The material is a petroleum refinery waste containing oil which is converted into petroleum coke at the same facility at which the waste was generated, unless the resulting coke product would be identified as a hazardous waste under this chapter.

(C) The material is oily waste, used oil, or spent nonhalogenated solvent which is managed by the owner or operator of a refinery which is processing primarily crude oil and which is not subject to permit requirements for recycling of used oil, or a public utility, or a corporate subsidiary, corporate parent, or subsidiary of the same corporate parent of the refinery or public utility, and which meets all of the following requirements:

(i) The material is either burned in an industrial boiler, an industrial furnace, an incinerator, or a utility boiler which complies with all applicable federal and state laws, or is recombined with normal process streams to produce a fuel.

(ii) The material is managed at the site where it was generated; managed at another site owned or operated by the generator, a corporate subsidiary of the generator, a subsidiary of the same entity of which the generator is a subsidiary, or the corporate parent of the generator; or, if the material is generated in the course of oil or gas exploration or production, managed by an unrelated refinery receiving the waste through a common pipeline.

(iii) The material does not contain constituents other than those for which the material is being recycled which render the material hazardous under regulations adopted pursuant to Sections 25140 and 25141.

(D) The material is a fuel which is removed from a fuel tank, is either contaminated with water or by nonhazardous debris, of not more than 2 percent by weight, including, but not limited to, rust or sand, or a fuel unintentionally mixed with an unused petroleum product, and is transferred to, and processed into a fuel at, a refinery which processes primarily crude oil.

(3) The material is transported between locations operated by the same person who generated the material, if the material is recycled at the last location operated by that person and all of the conditions of clauses (i) to (vi), inclusive, of subparagraph (A) of paragraph (4) are met. If requested by the department or by any law enforcement official, a person handling material subject to this paragraph shall, within 15 days of the request, supply documentation to show that the requirements of this paragraph have been satisfied.

(4) (A) The material is transferred between locations operated by the same person who generated the material, if the material is to be recycled at an authorized offsite hazardous waste facility and if all of the following conditions are met:

(i) The material is transferred by employees of that person in vehicles under the control of that person or by a registered hazardous waste hauler under contract to that person.

(ii) The material is not handled at any interim location.

(iii) The material is not held at any publicly accessible interim location for more than four hours unless required by other provisions of law.

(iv) The material is managed in compliance with the requirements of this chapter and the regulations adopted pursuant to this chapter prior to the initial transportation of the material and after the receipt of the material at the last location operated by that person. Upon receipt of the material at the last location operated by that person, the material shall be deemed to have been generated at that location.

(v) All of the following information is maintained in an operating log at the last location operated by that person:

(I) The name and address of each generator location contributing material to each shipment received.

(II) The quantity and type of material contributed by each generator to each shipment of material.

(III) The destination and intended disposition of all material shipped offsite or received.

(IV) The date of each shipment received or sent offsite.

The log shall be kept for at least three years after receipt of the material at that location.

(vi) If requested by the department, or by any law enforcement official, a person handling material subject to this paragraph shall, within 15 days of the request, supply documentation to show that the requirements of this paragraph have been satisfied.

(B) For purposes of paragraph (3) and subparagraph (A) of paragraph (4), "person" also includes corporate subsidiary, corporate parent, or subsidiary of the same corporate parent.

(C) Persons which are a corporate subsidiary, corporate parent, or subsidiary of the same corporate parent, and which manage recyclable materials under paragraph (3) or subparagraph (A) of paragraph (4), are jointly and severally liable for any activities excluded from regulation pursuant to this section.

(5) The material is used or reused as an ingredient in an industrial process to make a product, if the material is not being treated before introduction to that process except by one or more of the following procedures, and if any discharges to air from the following procedures do not contain constituents which are hazardous wastes pursuant to the department's regulations and comply with applicable air pollution control laws:

(A) Filtering.

(B) Screening.

(C) Sorting.

(D) Sieving.

(E) Grinding.

(F) Physical or gravity separation, without the addition of external heat or any chemicals.

(G) pH adjustment.

(H) Viscosity adjustment.

(6) The material is used or reused as a safe and effective substitute for commercial products, if the material is not being treated except by one or more of the following procedures, and if any discharges to air from the following procedures do not contain constituents which are hazardous wastes pursuant to the department's regulations and comply with applicable air pollution control laws:

(A) Filtering.

(B) Screening.

(C) Sorting.

(D) Sieving.

(E) Grinding.

(F) Physical or gravity separation, without the addition of external heat or any chemicals.

(G) pH adjustment.

(H) Viscosity adjustment.

(e) Notwithstanding subdivisions (b), (c), and (d), all of the following recyclable materials are hazardous wastes and subject to full regulation under this chapter, even if the recycling involves use, reuse, or return to the original process as described in subdivision (b), or even if the recycling involves activities or materials described in subdivisions (c) and (d):

(1) Materials which are a RCRA hazardous waste, as defined in Section 25120.2, used in a manner constituting disposal, or used to produce products that are applied to the land including, but not limited to, materials used to produce a fertilizer, soil amendment, agricultural mineral, or an auxiliary soil and plant substance.

(2) Materials which are a non-RCRA hazardous waste, as defined in Section 25117.9, and used in a manner constituting disposal or used to produce products that are applied to the land as a fertilizer, soil amendment, agricultural mineral, or an auxiliary soil and plant substance. The department may adopt regulations to exclude materials from regulation pursuant to this paragraph.

(3) Materials burned for energy recovery, used to produce a fuel, or contained in fuels, except materials exempted under paragraph (1) of subdivision (c) or excluded under subparagraph (B), (C), or (D) of paragraph (2) of subdivision (d).

(4) Materials accumulated speculatively.

(5) Materials determined to be inherently wastelike pursuant to regulations adopted by the department.

(6) Used or spent etchants, stripping solutions, and plating solutions, which are transported to an offsite facility operated by a person other than the generator and which are either of the following:

(A) The etchants or solutions are no longer fit for their originally purchased or manufactured purpose.

(B) If the etchants or solutions are reused, the generator and the user cannot document that they are used for their originally purchased or manufactured purpose without prior treatment.

(7) Used oil, as defined in subdivision (a) of Section 25250.1, unless

one of the following applies:

(A) The used oil is excluded under subparagraph (B) or (C) of paragraph (2) of subdivision (d) or under paragraph (4) of subdivision (d) of this section, under subdivision (e) of Section 25250.1, or under Section 25250.3.

(B) The used oil is used or reused on the site where it was generated or is excluded under paragraph (3) of subdivision (d) of this section and, in either situation, is not any of the following:

(i) Used in a manner constituting disposal or used to produce a product that is applied to land.

(ii) Burned for energy recovery or used to produce a fuel, unless the used oil is excluded under subparagraph (B) or (C) of paragraph (2) of subdivision (d).

(iii) Accumulated speculatively.

(iv) Determined to be inherently wastelike pursuant to regulations adopted by the department.

(f) (1) Any person who manages a recyclable material under a claim that the material qualifies for exclusion or exemption pursuant to this section shall provide, upon request, to the department, the Environmental Protection Agency, or any local agency or official authorized to bring an action as provided in Section 25180, all of the following information:

(A) The name, street and mailing address, and telephone number of the owner or operator of any facility that manages the material.

(B) Any other information related to that person's management of the material requested by the department, the Environmental Protection Agency, or the authorized local agency or official.

(2) Any person claiming an exclusion or an exemption shall maintain adequate records to demonstrate to the satisfaction of the requesting agency or official that there is a known market or disposition for the material, and that the requirements of any exemption or exclusion pursuant to this section are met.

(3) For purposes of determining that the conditions for exclusion from classification as a waste pursuant to this section are met, any person, facility, site, or vehicle engaged in the management of a material under a claim that the material is excluded from classification as a waste pursuant to this section shall be subject to Section 25185.

(g) For purposes of Chapter 6.8 (commencing with Section 25300), recyclable materials excluded from classification as a waste pursuant to this section are not excluded from the definition of hazardous substances in subdivision (g) of Section 25316.

(h) Used oil that fails to qualify for exclusion pursuant to subdivision (d) solely because the used oil is a RCRA hazardous waste, may be managed pursuant to subdivision (d) if the used oil is also managed in accordance with Part 260 (commencing with Section 260.1) to Part 270 (commencing with Section 270.1), inclusive, of Subchapter I of Chapter 1 of Title 40 of the Code of Federal Regulations.

SEC. 2. Section 25143.9 of the Health and Safety Code is amended to read:

25143.9. A recyclable material shall not be excluded from classification as a waste pursuant to subdivision (b) or (d) of Section 25143.2, unless all of the following requirements are met:

(a) If the material is held in a container or tank, the container or tank is labeled, marked, and placarded in accordance with the department's hazardous waste labeling, marking, and placarding requirements which are applicable to generators, except that the container or tank shall be labeled or marked clearly with the words "Excluded Recyclable Material" instead of the words "Hazardous Waste," and manifest document numbers are not applicable.

(b) The owner or operator of the business location where the material is located has a business plan that meets the requirements of Section 25504, including, but not limited to, emergency response plans and procedures, as described in subdivision (b) of Section 25504, which specifically address the material or that meet the department's emergency response and contingency requirements which are applicable to generators of hazardous waste.

(c) The material shall be stored and handled in accordance with all local ordinances and codes, including, but not limited to, fire codes, governing the storage and handling of the hazardous material. If a local jurisdiction does not have an ordinance or code regulating the storage of the material, including, but not limited to, an ordinance or code requiring secondary containment for hazardous material storage areas, then the material shall be stored in tanks, waste piles, or containers meeting the department's regulations establishing design standards which would be applicable to tanks, waste piles, or containers if the material were not exempt from classification as a hazardous waste.

(d) If the material is being exported to a foreign country, the person exporting the material meets the requirements of Section 25162.1.

SEC. 2.5. Section 25143.9 of the Health and Safety Code is amended to read:

25143.9. A recyclable material shall not be excluded from classification as a waste pursuant to subdivision (b) or (d) of Section 25143.2, unless all of the following requirements are met:

(a) If the material is held in a container or tank, the container or tank is labeled, marked, and placarded in accordance with the department's hazardous waste labeling, marking, and placarding requirements which are applicable to generators, except that the container or tank shall be labeled or marked clearly with the words "Excluded Recyclable Material" instead of the words "Hazardous Waste," and manifest document numbers are not applicable.

(b) The owner or operator of the business location where the material is located has a business plan that meets the requirements of Section 25504, including, but not limited to, emergency response plans and procedures, as described in subdivision (b) of Section

25504, which specifically address the material or that meet the department's emergency response and contingency requirements which are applicable to generators of hazardous waste.

(c) The material shall be stored and handled in accordance with all local ordinances and codes, including, but not limited to, fire codes, governing the storage and handling of the hazardous material. If a local jurisdiction does not have an ordinance or code regulating the storage of the material, including, but not limited to, an ordinance or code requiring secondary containment for hazardous material storage areas, then the material shall be stored in tanks, waste piles, or containers meeting the department's interim status regulations establishing design standards applicable to tanks, waste piles, or containers storing hazardous waste.

(d) If the material is being exported to a foreign country, the person exporting the material shall meet the requirements of Section 25162.1.

SEC. 3. Section 25162.1 is added to the Health and Safety Code, to read:

25162.1. A recyclable material that is to be exported to a foreign country is not excluded from classification as a waste pursuant to subdivision (b) or (d) of Section 25143.2, unless the requirements of Sections 25143.2 and 25143.9 are met, and the person exporting the material has complied with all of the following requirements:

(a) The person notifies the department, in writing, four weeks before the initial shipment. This notification may cover export activities extending over a 12-month or lesser period and shall include all of the following information:

(1) The generator's name, site address, mailing address, telephone number, Environmental Protection Agency or state identification number, if applicable, contact person, and signature of exporter.

(2) Each transporter's name, address, telephone number, Environmental Protection Agency or state identification number, if applicable, name of contact person, mode of transportation, and container type used during transport.

(3) A description of the material and, if applicable, its United States Department of Transportation proper shipping name, hazard class, and shipping identification number (UN/NA).

(4) The estimated frequency of shipments and total quantity of material to be exported.

(5) All points of departure from the state and intended destinations.

(6) Each receiving facility's name and address.

(7) A description of the end use of the material, and the basis for the specific exemption provided in Section 25143.2 which is applicable to the material.

(b) For each individual shipment, submit to the department, within 90 days of shipment date, a copy of the waybill, shipping paper, or any document which includes all of the following

information specific to that shipment:

(1) Each generator's name and address.

(2) Each receiving facility's name and address.

(3) The date of shipment.

(4) The type, quantity, and value of the material.

SEC. 4. Section 25176 of the Health and Safety Code is repealed:

SEC. 5. Section 25178 of the Health and Safety Code is amended to read:

25178. On or before January 1 of each odd-numbered year, the department shall prepare and submit to the Legislature a report containing, but not limited to, the following:

(a) The status of the regulatory and program developments required pursuant to legislative mandates.

(b) The status of the hazardous waste facilities permit program which shall include all of the following information:

(1) A description of the final hazardous waste facilities permit applications received.

(2) The number of final hazardous waste facilities permits issued to date.

(3) The number of final hazardous waste facilities permits yet to be issued.

(4) A complete description of the reasons why the final hazardous waste facilities permits yet to be issued have not been issued.

For purposes of this subdivision, "hazardous waste facility" means a facility which uses a land disposal method, as defined in subdivision (h) of Section 25179.3, and which disposes of wastes regulated as hazardous waste pursuant to the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. Sec. 6901 et seq.).

(c) The status of the hazardous waste facilities siting program.

(d) The status of the hazardous waste abandoned sites program.

(e) A summary of enforcement actions taken pursuant to this chapter and any other actions relating to hazardous waste management.

(f) Summary data on annual quantities and types of hazardous waste generated, transported, treated, stored, and disposed.

(g) Summary data regarding onsite and offsite disposition of hazardous waste.

(h) Research activity initiated by the department.

(i) Regulatory action by other agencies relating to hazardous waste management.

(j) A revised listing of recyclable materials showing any additions or deletions to the list prepared pursuant to Section 25175 that have occurred since the last report.

(k) Any other data considered pertinent by the department to hazardous waste management.

SEC. 6. Section 25250.1 of the Health and Safety Code is amended to read:

25250.1. As used in this article, the following terms have the following meanings:

(a) "Used oil" means any of the following:

(1) Any oil that has been refined from crude oil, and has been used, and, as a result of use, has been contaminated with physical or chemical impurities.

(2) Any oil that has been refined from crude oil and, as a consequence of extended storage, spillage, or contamination with nonhazardous impurities such as dirt and water, is no longer useful to the original purchaser.

(3) Spent lubricating fluids which have been removed from an engine crankcase, transmission, gearbox, or differential of an automobile, bus, truck, vessel, plane, heavy equipment, or machinery powered by an internal combustion engine.

(4) Spent industrial oils, including compressor, turbine, and bearing oil, hydraulic oil, metal-working oil, refrigeration oil, and railroad drainings.

(5) Contaminated fuel oil with a flashpoint equal to or greater than 100°F.

"Used oil" does not include oil which has a flashpoint below 100°F or which has been intentionally mixed with hazardous waste, other than minimal amounts of vehicle fuel. "Used oil" also does not include oil which contains polychlorinated biphenyls (PCBs) at a concentration of 5 ppm or greater. Used oil containing more than 1,000 ppm total halogens shall also meet the Environmental Protection Agency requirements listed in paragraph (c) of Section 266.40 of Title 40 of the Code of Federal Regulations.

(b) "Board" means the California Integrated Waste Management Board.

(c) "Recycled oil" means any oil, produced from used oil, which has been prepared for reuse and which achieves minimum standards of purity, in liquid form, as established by the department. This subdivision does not apply to oil which is to be disposed. The following standards of purity are in effect unless the department, by regulation, establishes more stringent standards:

(1) Flashpoint: minimum standards set by the American Society for Testing and Materials for the recycled products.

(2) Lead: 100 ppm or less prior to January 1, 1988; 50 ppm or less on and after January 1, 1988.

(3) Arsenic: 5 ppm or less.

(4) Chromium: 10 ppm or less.

(5) Cadmium: 2 ppm or less.

(6) Total halogens: if the oil contains more than 1,000 ppm total halogens, the oil shall meet the requirements of Section 266.40 of Title 40 of the Code of Federal Regulations (50 Fed. Reg. 49205), so that the oil is regulated as used oil pursuant to Subpart E (commencing with Section 266.40) of Part 266 of Subchapter I of Chapter 1 of Title 40 of the Code of Federal Regulations, and not as a RCRA hazardous waste pursuant to Subpart D (commencing with Section 266.30) of Part 266 of Subchapter I of Chapter 1 of Title 40 of the Code of Federal Regulations. However, the oil shall not

contain more than 3,000 ppm total halogens.

(7) Polychlorinated biphenyls (PCBs): less than 2 ppm.

Compliance with these standards shall not be met by blending or diluting used oil with crude or virgin oil and shall be determined in accordance with the procedures for identification and listing of hazardous waste adopted in regulations by the department. Persons authorized by the department to recycle oil shall maintain records of volumes and characteristics of incoming used oil and outgoing recycled oil and documentation concerning the recycling technology utilized to demonstrate to the satisfaction of the department or other enforcement agencies that the recycling has been achieved in compliance with this subdivision.

(d) The standards set in subdivision (c) include the only concentrations allowed above the criteria adopted pursuant to Section 25141.

(e) Used oil which meets the standards set in subdivision (c), is not hazardous pursuant to the criteria adopted pursuant to Section 25141 for constituents other than those listed in subdivision (c), and is not mixed with any waste listed as a hazardous waste in Part 261 (commencing with Section 261.1) of Chapter 1 of Title 40 of the Code of Federal Regulations is not regulated by the department, unless otherwise specified. Used oil recycling facilities that are the first to claim that the used oil meets these requirements shall maintain an operating log and copies of certification forms as specified in Section 25250.19. Any person who generates used oil, and who claims that the oil is exempt from regulation pursuant to this subdivision, shall notify the department, in writing, of that claim and shall comply with the testing and recordkeeping requirements of Section 25250.19 prior to its reuse. In any action to enforce this article, the burden is on the generator or recycling facility (whichever first claimed that the used oil met the standards and criteria) and user of the used oil to prove that the oil met those standards and criteria.

(f) "Used oil recycling facility" means a facility which reprocesses or rerefines used oil.

(g) "Used oil storage facility" means a storage facility, as defined in subdivision (a) of Section 25123.3, which stores used oil.

(h) "Used oil transfer facility" means a transfer facility, as defined in subdivision (c) of Section 25123.3, that either stores used oil for periods greater than 144 hours or that transfers used oil from one container to another.

SEC. 7. Section 25250.4 of the Health and Safety Code is amended to read:

25250.4. Used oil shall be managed as a hazardous waste in accordance with the requirements of this chapter until it has been shown to meet the requirements of subdivision (e) of Section 25250.1 or is excluded from regulation as a hazardous waste pursuant to Section 25143.2.

SEC. 8. Section 25250.15 of the Health and Safety Code is amended to read:

25250.15. (a) Any person operating a refuse removal vehicle or a curbside collection vehicle used to collect or transport used oil which has been generated as a household waste or as part of a curbside recycling program, as defined by the board, is exempt from the requirements of Sections 25160 and 25250.8, and subdivisions (a) and (e) of Section 25163 of this code and Chapter 2.5 (commencing with Section 2500) of Division 2, Division 14.1 (commencing with Section 32000), and subdivision (g) of Section 34500 of the Vehicle Code.

(b) Refuse removal and other curbside collection operations exempted under subdivision (a) are also exempt from permit requirements pursuant to Article 9 (commencing with Section 25200), if the storage location meets all applicable hazardous waste generator, container, and tank requirements, except for the generator fee requirement specified in subdivision (d).

(c) Used oil collected under the requirements of this section shall be deemed to be generated by the storage location upon receipt.

(d) Used oil collected pursuant to this section is exempt from the generator fee imposed pursuant to Section 25205.5.

SEC. 9. Section 1.5 of this bill incorporates amendments to Section 25143.2 of the Health and Safety Code proposed by both this bill and AB 1713. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 25143.2 of the Health and Safety Code, and (3) this bill is enacted after AB 1713, in which case Section 1 of this bill shall not become operative.

SEC. 10. Section 2.5 of this bill incorporates amendments to Section 25143.9 of the Health and Safety Code proposed by both this bill and AB 1713. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 25143.9 of the Health and Safety Code, and (3) this bill is enacted after AB 1713, in which case Section 2 of this bill shall not become operative.

SEC. 11. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1174

An act to add Section 66023 to the Education Code, relating to postsecondary education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 66023 is added to the Education Code, to read:

66023. Each segment of public higher education shall establish, and update as necessary, a written policy concerning students who are called to active military service. The policy shall do all of the following:

(a) Ensure that those students do not lose academic credits or degree status.

(b) Provide for a refund of fees paid by the student for the term in which he or she was called to active military service.

(c) Exempt students who were required to leave school for active military service during any term commencing in the fall of 1990 through the spring of 1991 from paying any increase in fees. This exemption shall remain in effect for the same number of terms that the student was absent from school because of active military service.

SEC. 2. No provision of this act shall apply to the University of California, unless the Regents of the University of California, by resolution, make the provision applicable.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that students who have been called to active military service in the current academic year may benefit as soon as possible from the policies required to be established by this act, it is necessary that this act take effect immediately.

CHAPTER 1175

An act to amend Sections 23249.53, 23249.54, and 23249.55 of the Vehicle Code, relating to vehicles.

[Approved by Governor October 14, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 23249.53 of the Vehicle Code is amended to read:

23249.53. (a) Any person convicted of a violation of Section 23152 or 23153 in a judicial district that participates in a county alcohol and drug problem assessment program pursuant to this article shall participate in the program.

(b) Any person convicted of a violation of Section 23103, as specified in Section 23103.5, in a judicial district that participates in a county alcohol and drug problem assessment program pursuant to this article, may be ordered to participate in the program.

SEC. 2. Section 23249.54 of the Vehicle Code is amended to read:

23249.54. An alcohol and drug problem assessment report shall be made on each person who participates in the program. The report may be used to determine the appropriate sentence for any person convicted of a violation of Section 23103, as specified in Section 23103.5, or Section 23152, or 23153.

SEC. 3. Section 23249.55 of the Vehicle Code is amended to read:

23249.55. (a) Notwithstanding any other provision of law, in addition to any other fine or penalty assessment, there shall be levied an assessment of not more than seventy-five dollars ($75) upon every fine, penalty, or forfeiture imposed and collected by the courts for a violation of Section 23152 or 23153 in any judicial district that participates in a county alcohol and drug problem assessment program pursuant to this article. An assessment of not more than seventy-five dollars ($75) shall be imposed and collected by the courts from each person convicted of a violation of Section 23103, as specified in Section 23103.5, who is ordered to participate in a county alcohol and drug problem assessment program pursuant to Section 23249.53.

(b) The court shall determine if the defendant has the ability to pay the assessment. If the court determines that the defendant has the ability to pay the assessment then the court may set the amount to be reimbursed and order the defendant to pay that sum to the county in the manner which the court determines is reasonable and compatible with the defendant's financial ability. In making a determination of whether a defendant has the ability to pay, the court shall take into account the amount of any fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution.

(c) Notwithstanding Section 1463 or 1464 of the Penal Code or any other provision of law, all moneys collected pursuant to this section shall be deposited in a special account in the county treasury and shall be used exclusively to pay for the costs of developing, implementing, operating, maintaining, and evaluating alcohol and drug problem assessment programs.

(d) On January 15 of each year, the treasurer of each county that administers an alcohol and drug problem assessment program shall determine those moneys in the special account which were not expended during the preceding fiscal year, and shall transfer those moneys to the general fund of the county.

(e) Any moneys remaining in the special account, if and when the alcohol and drug problem assessment program is terminated, shall be transferred to the general fund of the county.

(f) The county treasurer shall annually transfer an amount of money equal to the county's administrative cost incurred pursuant to this section, as he or she shall determine, from the special account to the general fund of the county.

CHAPTER 1176

An act to amend Sections 1091 and 1126 of, and to repeal Section 1129.1 of, the Government Code, relating to water.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 1091 of the Government Code is amended to read:

1091. (a) An officer shall not be deemed to be interested in a contract entered into by a body or board of which the officer is a member within the meaning of this article if the officer has only a remote interest in the contract and if the fact of that interest is disclosed to the body of the board of which the officer is a member and noted in its official records, and thereafter the body or board authorizes, approves, or ratifies the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the officer or member with the remote interest.

(b) As used in this article, "remote interest" means any of the following:

(1) That of an officer or employee of a nonprofit corporation, except as provided in paragraph (8) of subdivision (a) of Section 1091.5.

(2) That of an employee or agent of the contracting party, if the contracting party has 10 or more other employees and if the officer was an employee or agent of that contracting party for at least three

years prior to the officer initially accepting his or her office.

For purposes of this paragraph, time of employment with the contracting party by the officer shall be counted in computing the three-year period specified in this paragraph even though the contracting party has been converted from one form of business organization to a different form of business organization within three years of the initial taking of office by the officer. Time of employment in that case shall be counted only if, after the transfer or change in organization, the real or ultimate ownership of the contracting party is the same or substantially similar to that which existed before the transfer or change in organization. For purposes of this paragraph, stockholders, bondholders, partners, or other persons holding an interest in the contracting party are regarded as having the "real or ultimate ownership" of the contracting party.

(3) That of an employee or agent of the contracting party, if all of the following conditions are met:

(A) The agency of which the person is an officer is a local public agency located in a county with a population of less than 4,000,000.

(B) The contract is competitively bid and is not for personal services.

(C) The employee or agent is not in a primary management capacity with the contracting party, is not an officer or director of the contracting party, and holds no ownership interest in the contracting party.

(D) The contracting party has 10 or more other employees.

(E) The employee or agent did not directly participate in formulating the bid of the contracting party.

(F) The contracting party is the lowest responsible bidder.

(4) That of a parent in the earnings of his or her minor child for personal services.

(5) That of a landlord or tenant of the contracting party.

(6) That of an attorney of the contracting party or that of an owner, officer, employee, or agent of a firm which renders, or has rendered, service to the contracting party in the capacity of stockbroker, insurance agent, insurance broker, real estate agent, or real estate broker, if these individuals have not received and will not receive remuneration, consideration, or a commission as a result of the contract.

(7) That of a member of a nonprofit corporation formed under the Food and Agricultural Code or a nonprofit corporation formed under the Corporations Code for the sole purpose of engaging in the merchandising of agricultural products or the supplying of water.

(8) That of a supplier of goods or services when those goods or services have been supplied to the contracting party by the officer for at least five years prior to his or her election or appointment to office.

(9) That of a person subject to the provisions of Section 1090 in any contract or agreement entered into pursuant to the provisions of the California Land Conservation Act of 1965.

(10) That of an officer, director, or employee of a bank, bank holding company, or savings and loan association with which a party to the contract has the relationship of borrower or depositor, debtor or creditor.

(11) That of an engineer, geologist, or architect employed by a consulting engineering or architectural firm. This paragraph applies only to an employee of a consulting firm who does not serve in a primary management capacity, and does not apply to an officer or director of a consulting firm.

(12) That of an elected officer otherwise subject to Section 1090, in any housing assistance payment contract entered into pursuant to Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f) as amended, provided that the housing assistance payment contract was in existence before Section 1090 became applicable to the officer and will be renewed or extended only as to the existing tenant, or, in a jurisdiction in which the rental vacancy rate is less than 5 percent, as to new tenants in a unit previously under a Section 8 contract. This section applies to any person who became a public official on or after November 1, 1986.

(c) This section is not applicable to any officer interested in a contract who influences or attempts to influence another member of the body or board of which he or she is a member to enter into the contract.

(d) The willful failure of an officer to disclose the fact of his or her interest in a contract pursuant to this section is punishable as provided in Section 1097. That violation does not void the contract unless the contracting party had knowledge of the fact of the remote interest of the officer at the time the contract was executed.

SEC. 2. Section 1126 of the Government Code is amended to read:

1126. (a) Except as provided in Sections 1128 and 1129, a local agency officer or employee shall not engage in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to his or her duties as a local agency officer or employee or with the duties, functions, or responsibilities of his or her appointing power or the agency by which he or she is employed. The officer or employee shall not perform any work, service, or counsel for compensation outside of his or her local agency employment where any part of his or her efforts will be subject to approval by any other officer, employee, board, or commission of his or her employing body, unless otherwise approved in the manner prescribed by subdivision (b).

(b) Each appointing power may determine, subject to approval of the local agency, and consistent with the provisions of Section 1128 where applicable, those outside activities which, for employees under its jurisdiction, are inconsistent with, incompatible to, or in conflict with their duties as local agency officers or employees. An employee's outside employment, activity, or enterprise may be prohibited if it: (1) involves the use for private gain or advantage of

his or her local agency time, facilities, equipment and supplies; or the badge, uniform, prestige, or influence of his or her local agency office or employment or, (2) involves receipt or acceptance by the officer or employee of any money or other consideration from anyone other than his or her local agency for the performance of an act which the officer or employee, if not performing such act, would be required or expected to render in the regular course or hours of his or her local agency employment or as a part of his or her duties as a local agency officer or employee or, (3) involves the performance of an act in other than his or her capacity as a local agency officer or employee which act may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement of any other officer or employee or the agency by which he or she is employed, or (4) involves the time demands as would render performance of his or her duties as a local agency officer or employee less efficient.

The local agency may adopt rules governing the application of this section. The rules shall include provision for notice to employees of the determination of prohibited activities, of disciplinary action to be taken against employees for engaging in prohibited activities, and for appeal by employees from such a determination and from its application to an employee. Nothing in this section is intended to abridge or otherwise restrict the rights of public employees under Chapter 9.5 (commencing with Section 3201) of Title 1.

SEC. 3. Section 1129.1 of the Government Code is repealed.

CHAPTER 1177

An act to amend Section 655 of the Insurance Code, and to amend Sections 14904, 16000, 16050.5, 16053, and 16431 of, and to repeal Section 16432 of, the Vehicle Code, relating to financial responsibility, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 655 of the Insurance Code is amended to read:

655. Every insurer issuing policies of motor vehicle liability insurance within the meaning of Section 16450 of the Vehicle Code, automobile liability insurance within the meaning of Section 16054 of that code, or any other liability insurance issued for vehicles with less than four wheels that meets the requirements of Section 16056 of that code shall also, as an incident thereto, complete and file the certificate or certificates provided for under Section 16431 of that code. The proof required by this section may be provided by the

filing of a single certificate.

SEC. 2. Section 14904 of the Vehicle Code is amended to read:

14904. (a) Notwithstanding any other provision of this code, before a driver's license may be issued, reissued, or returned to the licensee after a suspension or a revocation of a person's driving privilege ordered by the department has been terminated, there shall, in addition to any other fees required by this code, be paid to the department a fee sufficient to pay the actual costs of the issuance, reissuance, or return as determined by the department.

(b) This section shall not apply to any suspension or revocation that is set aside by the department or a court.

(c) This section shall not apply to any suspension or revocation based upon a physical or mental condition.

SEC. 3. Section 16000 of the Vehicle Code is amended to read:

16000. (a) The driver of every motor vehicle who is in any manner involved in an accident originating from the operation of a motor vehicle on any street or highway or any reportable off-highway accident defined in Section 16000.1 which has resulted in damage to the property of any one person in excess of five hundred dollars ($500) or in bodily injury or in the death of any person shall, within 10 days after the accident, report the accident, either personally or through an insurance agent, broker, or legal representative, on a form approved by the department to the office of the department at Sacramento, subject to the provisions of this chapter.

(b) A report is not required pursuant to subdivision (a) if the motor vehicle involved in the accident was owned or leased by, or under the direction of, the United States, this state, another state, or a local agency.

SEC. 4. Section 16050.5 of the Vehicle Code is amended to read:

16050.5. The owner of a vehicle, who has a liability insurance policy with respect to the vehicle, shall, upon request, furnish insurance information to a person who, while operating the vehicle with the owner's permission, is involved in a reportable accident with the insured vehicle, or to the department whenever the department is required to establish whether the permitted driver meets the financial responsibility requirements of Section 16020.

SEC. 5. Section 16053 of the Vehicle Code is amended to read:

16053. (a) The department may in its discretion, upon application, issue a certificate of self-insurance when it is satisfied that the applicant in whose name more than 25 motor vehicles are registered is possessed and will continue to be possessed of ability to pay judgments obtained against him or her in amounts at least equal to the amounts provided in Section 16056. The certificate may be issued authorizing the applicant to act as a self-insurer for either property damage or bodily injury or both. Any person duly qualified under the laws or ordinances of any city or county to act as self-insurer and then acting as such, may upon filing with the department satisfactory evidence thereof, along with the application

as may be required by the department, be entitled to receive a certificate of self-insurance.

(b) Upon not less than five days' notice and a hearing pursuant to the notice, the department may upon reasonable grounds cancel a certificate of self-insurance. Failure to pay any judgment within 30 days after the judgment has become final and has not been stayed or satisfied shall constitute a reasonable ground for the cancellation of a certificate of self-insurance.

SEC. 6. Section 16431 of the Vehicle Code is amended to read:

16431. (a) Proof of financial responsibility may be given by the written certificate or certificates of any insurance carrier duly authorized to do business within the state, that it has issued to or for the benefit of the person named therein a motor vehicle liability policy as defined in Section 16450, an automobile liability policy as defined in Section 16054, or any other liability policy issued for vehicles with less than four wheels that meets the requirements of Section 16056, which, at the date of the certificate or certificates is in full force and effect. Except as provided in subdivision (b), the certificate or certificates issued under any liability policy set forth in this section shall be accepted by the department and satisfy the requirements of proof of financial responsibility of this chapter. Nothing in this chapter requires that an insurance carrier certify that there is coverage broader than that provided by the actual policy issued by the carrier.

(b) The department shall require that a person whose driver's license has been revoked, suspended, or restricted pursuant to Section 13350, 13351, 13352, 13353, 13353.2, 13353.3, 13353.6, 13353.7, 16370, or 16370.5 provide, as proof of financial responsibility, a certificate or certificates which covers all motor vehicles registered to the person before reinstatement of his or her driver's license.

(c) Subdivision (b) does not apply to vehicles in storage if the current license plates and registration cards are surrendered to the department in Sacramento.

SEC. 7. Section 16432 of the Vehicle Code is repealed.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the Department of Motor Vehicles to implement more uniform requirements concerning insurance coverage needed to satisfy the financial responsibility requirements of the Vehicle Code, it is necessary that this act take effect immediately.

CHAPTER 1178

An act to amend Sections 1400, 1515, and 10211 of the Elections Code, relating to elections.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 1400 of the Elections Code is amended to read:

1400. Any county having the necessary computer capability may start to process absent voter ballots on the seventh day prior to the election. This process may be completed to the point of putting the information on computer tape, but under no circumstances, shall a vote count be made until 8 p.m. on the day of the election. All other elections officials shall start to process absent voter ballots at 5 p.m. on the day before the election.

Results of any absent voter tabulation or count are not to be released prior to the close of the polls on the day of the election.

SEC. 2. Section 1515 of the Elections Code is amended to read:

1515. If the affidavit of registration of a voter is erroneously placed in a precinct, the voter may apply to the elections official for a certificate showing the record of registration. The elections official shall give the voter the certificate on or before election day. Upon presentation of this certificate to the precinct board of the proper precinct, the board shall permit the voter to vote. If the voter does not obtain the certificate provided for in this section and votes in the precinct into which the affidavit of registration has been erroneously placed by the elections official and the election is contested, the voter's vote shall not be rejected for those candidates and on those measures with respect to which the voter would have been entitled to vote had the voter voted in the proper precinct, and no inquiry shall be made as to how the voter voted for those candidates or on those measures.

No voter who receives a certificate of registration under this section shall be charged a fee by the elections official.

SEC. 3. Section 10211 of the Elections Code is amended to read:

10211. (a) With the exception of candidates for Justice of the State Supreme Court or court of appeal, immediately under the name of each candidate, and not separated from the name by any line, may appear at the option of the candidate only one of the following designations:

(1) Words designating the elective city, county, district, state, or federal office which the candidate holds at the time of filing the nomination documents to which he or she was elected by vote of the people, or to which he or she was appointed, in the case of a superior, municipal, or justice court judge.

(2) The word "incumbent" if the candidate is a candidate for the same office which he or she holds at the time of filing the nomination papers, and was elected to that office by a vote of the people, or, in the case of a superior, municipal, or justice court judge, was appointed to that office.

(3) No more than three words designating either the current principal profession, vocation, or occupation of the candidate, or the principal profession, vocation, or occupation of the candidate during the calendar year immediately preceding the filing of nomination documents. For purposes of this section, all California geographical names shall be considered to be one word.

(4) The phrase "appointed incumbent" if the candidate holds an office other than a judicial office by virtue of appointment, and the candidate is a candidate for election to the same office, or, if the candidate is a candidate for election to the same office or to some other office, the word "appointed" and the title of the office. In either instance, the candidate may not use the unmodified word "incumbent" or any words designating the office unmodified by the word "appointed." However, the phrase "appointed incumbent" shall not be required of a candidate who seeks reelection to an office which he or she holds and to which he or she was appointed, as a nominated candidate, in lieu of an election, pursuant to Sections 5326, 5327, and 5328 of the Education Code or Section 8873, 9373, 9723, 22844, or 23520 of the Elections Code.

(b) Neither the Secretary of State nor any other election official shall accept a designation which:

(1) Would mislead the voter.

(2) Would suggest an evaluation of a candidate, such as outstanding, leading, expert, virtuous, or eminent.

(3) Abbreviates the word "retired" or places it following any word or words which it modifies.

(4) Uses a word or prefix, such as "former" or "ex-," which means a prior status. The only exception is the use of the word "retired."

(5) Uses the name of any political party, whether or not it has qualified for the ballot.

(6) Uses a word or words referring to a racial, religious, or ethnic group.

(7) Refers to any activity, which activity is prohibited by law.

(c) If upon checking the nomination documents the election official finds the designation to be in violation of any of the restrictions set forth in this section, the election official shall notify the candidate by registered or certified mail return receipt requested, addressed to the mailing address appearing on the candidate's nomination documents.

(1) The candidate shall, within three days from the date of receipt of the notice, appear before the election officer or, in the case of the Secretary of State, notify the Secretary of State by telephone, and provide an alternate designation.

(2) In the event the candidate fails to provide an alternate

designation, no designation shall appear after the candidate's name.

(d) No designation given by a candidate shall be changed by the candidate after the final date for filing nomination documents, except as specifically requested by the elections official as specified in subdivision (c) or as provided in subdivision (e).

(e) The designation shall remain the same for all purposes of both primary and general elections unless the candidate, at least 83 days prior to the general election, requests in writing a different designation which the candidate is entitled to use at the time of the request.

(f) In all cases words so used shall be printed in 8-point roman uppercase and lowercase type except that if the designation selected is so long that it would conflict with the space requirements of Sections 10207 and 10221, the elections official shall use a type size for the designation for each candidate for that office sufficiently smaller to meet these requirements.

(g) Whenever a foreign language translation of a candidate's designation is required under the Voting Rights Act of 1965 (42 U.S.C.A. Sec. 1971) to appear on the ballot in addition to the English language version, it shall be as short as possible, as consistent as is practicable with this section, and shall employ abbreviations and initials wherever possible in order to avoid undue length.

SEC. 3.5. Section 10211 of the Elections Code is amended to read:

10211. (a) With the exception of candidates for Justice of the State Supreme Court or court of appeal, immediately under the name of each candidate, and not separated from the name by any line, may appear at the option of the candidate only one of the following designations:

(1) Words designating the elective city, county, district, state, or federal office which the candidate holds at the time of filing the nomination documents to which he or she was elected by vote of the people, or to which he or she was appointed, in the case of a superior, municipal, or justice court judge.

(2) The word "incumbent" if the candidate is a candidate for the same office which he or she holds at the time of filing the nomination papers, and was elected to that office by a vote of the people, or, in the case of a superior, municipal, or justice court judge, was appointed to that office.

(3) No more than three words designating either the current principal professions, vocations, or occupations of the candidate, or the principal professions, vocations, or occupations of the candidate during the calendar year immediately preceding the filing of nomination documents. For purposes of this section, all California geographical names shall be considered to be one word.

(4) The phrase "appointed incumbent" if the candidate holds an office other than a judicial office by virtue of appointment, and the candidate is a candidate for election to the same office, or, if the candidate is a candidate for election to the same office or to some other office, the word "appointed" and the title of the office. In

either instance, the candidate may not use the unmodified word "incumbent" or any words designating the office unmodified by the word "appointed." However, the phrase "appointed incumbent" shall not be required of a candidate who seeks reelection to an office which he or she holds and to which he or she was appointed, as a nominated candidate, in lieu of an election, pursuant to Sections 5326 and 5328 of the Education Code or Section 8873, 9373, 9723, 22843.5, 22844, or 23520 of the Elections Code.

(b) Neither the Secretary of State nor any other election official shall accept a designation that:

(1) Would mislead the voter.

(2) Would suggest an evaluation of a candidate, such as outstanding, leading, expert, virtuous, or eminent.

(3) Abbreviates the word "retired" or places it following any word or words which it modifies.

(4) Uses a word or prefix, such as "former" or "ex-," which means a prior status. The only exception is the use of the word "retired."

(5) Uses the name of any political party, whether or not it has qualified for the ballot.

(6) Uses a word or words referring to a racial, religious, or ethnic group.

(7) Refers to any activity, which activity is prohibited by law.

(c) If, upon checking the nomination documents, the election official finds the designation to be in violation of any of the restrictions set forth in this section, the election official shall notify the candidate by registered or certified mail return receipt requested, addressed to the mailing address appearing on the candidate's nomination documents.

(1) The candidate shall, within three days from the date of receipt of the notice, appear before the election officer or, in the case of the Secretary of State, notify the Secretary of State by telephone, and provide an alternate designation.

(2) In the event the candidate fails to provide an alternate designation, no designation shall appear after the candidate's name.

(d) No designation given by a candidate shall be changed by the candidate after the final date for filing nomination documents, except as specifically requested by the elections official as specified in subdivision (c) or as provided in subdivision (e).

(e) The designation shall remain the same for all purposes of both primary and general elections, unless the candidate, at least 83 days prior to the general election, requests in writing a different designation which the candidate is entitled to use at the time of the request.

(f) In all cases words so used shall be printed in 8-point roman uppercase and lowercase type except that if the designation selected is so long that it would conflict with the space requirements of Sections 10207 and 10221, the elections official shall use a type size for the designation for each candidate for that office sufficiently smaller to meet these requirements.

(g) Whenever a foreign language translation of a candidate's designation is required under the Voting Rights Act of 1965 (42 U.S.C.A. Sec. 1971) to appear on the ballot in addition to the English language version, it shall be as short as possible, as consistent as is practicable with this section, and shall employ abbreviations and initials wherever possible in order to avoid undue length.

SEC. 4. Section 3.5 of this bill incorporates amendments to Section 10211 of the Elections Code proposed by both this bill and SB 1098. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2) each bill amends Section 10211 of the Elections Code, and (3) this bill is enacted after SB 1098, in which case Section 3 of this bill shall not become operative.

SEC. 5. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 6. Notwithstanding Section 5 of this act, no reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act relating to trial courts in counties subject to Chapter 13 (commencing with Section 77000) of Title 8 of the Government Code.

CHAPTER 1179

An act to repeal and amend Section 14132.44 of the Welfare and Institutions Code, relating to Medi-Cal, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. (a) The Legislature finds and declares that:

(1) The provision of targeted case management services would enable Medi-Cal beneficiaries to obtain access to medical, social,

educational, and other services for which they are eligible.

(2) Currently, certain case management services are being provided by public health nurses and other professionals, and are being financed by county ad valorem tax dollars.

(3) These county funds are not being matched by available federal funds.

(b) It is the intent of the Legislature that federal financial participation in both state and local programs be maximized. It is also the intent of the Legislature that local governments shall be able to voluntarily participate in federal programs where the state is not providing the necessary matching funds.

(c) It is the intent of the Legislature, in enacting this act, to provide for local government participation in the provision of targeted case management services pursuant to Section 1396n (g) of Title 42 of the United States Code, with maximum possible federal financial participation.

SEC. 2. Section 14132.44, as added by Chapter 1384 of the Statutes of 1987, of the Welfare and Institutions Code is repealed.

SEC. 3. Section 14132.44, as added by Chapter 1385 of the Statutes of 1987, of the Welfare and Institutions Code is amended to read:

14132.44. (a) Targeted case management, pursuant to Section 1915(g) of the Social Security Act as amended by Public Law 99-272 (42 U.S.C. Sec. 1396n(g)), is covered as a benefit, subject to utilization controls for the following populations:

(1) Persons served by regional centers administered by the State Department of Developmental Services.

(2) Persons in other programs administered by the State Department of Developmental Services.

(3) Persons receiving services pursuant to Section 14021.3.

(4) Persons in programs determined appropriate by the State Director of Health Services.

(b) A county may elect to provide targeted case management services to one or all of the following groups of Medi-Cal beneficiaries:

(1) High-risk children, youth, and families.

(2) Pregnant, postpartum, and parenting women.

(3) Persons with human immunodeficiency virus infection.

(4) Homeless persons.

(5) Persons abusing alcohol, drugs, or both.

(6) Persons known to use multiple service providers.

(7) Persons with catastrophic or chronic illnesses.

(8) Elderly persons at risk of institutionalization.

(9) Adults at risk of abuse or neglect

(c) A county that elects to make case management services available to the groups specified in subdivision (b) shall, for the purpose of obtaining federal medicaid matching funds, certify to the department the amount of funds expended on allowable targeted case management services.

(d) Upon federal approval for federal financial assistance, the

department, in consultation with counties, and consistent with federal regulations including the State Medicaid Manual of the Department of Health and Human Services, Health Care Financing Administration, shall define case management services, shall establish the standards under which case management services qualify as a Medi-Cal reimbursable service, shall develop an appropriate rate of reimbursement, and shall develop a claiming system to certify local matching expenditures.

(e) The Director of Health Services may require that the local government certify, in each fiscal year, that its expenditures represent costs that are eligible for federal financial participation for that fiscal year. Where this certification by the local government is required, the director shall determine whether that certification is adequately supported for purposes of federal financial participation.

(f) The state shall be held harmless from any federal disallowance resulting from payments made under this section. Any county that has received payments under this section shall be liable for any federal disallowance only with respect to the payments made to that county. The department shall recoup from a county the amount of any federal disallowance in the manner authorized by applicable laws and regulations.

(g) The use of local matching funds allowed by this section shall not create, lead to, or expand the health care funding obligations or service obligations for current or future years for any county, except as required by this section or as may be required by federal law.

(h) Case management services are services which assist clients to gain access to needed medical, social, educational, and other services. Activities conducted by case managers may include, but are not limited to, all of the following:

(1) Assessment of client needs and personal support systems.

(2) Development of comprehensive individualized service plans.

(3) Coordination of services required to implement the individualized service plan.

(4) Health information, education, and referral services.

(5) Client monitoring to assess the efficacy of the plan.

(6) Advocacy for clients with service providers.

(7) Reevaluation and adaptation of the individualized service plan as necessary.

SEC. 3.5. Section 14132.44 of the Welfare and Institutions Code, as added by Chapter 1385 of the Statutes of 1987, is amended to read:

14132.44. (a) Upon federal approval of the state plan amendments under Sections 14021.3 and 14027.5 for federal financial assistance, targeted case management, pursuant to Section 1915(g) of the Social Security Act as amended by Public Law 99-272 (42 U.S.C. Sec. 1396n(g)), is covered as a benefit, subject to utilization controls for the following populations:

(1) Persons served by regional centers administered by the State Department of Developmental Services.

(2) Persons in other programs administered by the State

Department of Developmental Services.

(3) Persons receiving services pursuant to Section 14021.3.

(4) Persons in programs determined appropriate by the State Director of Health Services.

(b) A county may elect to provide targeted case management services to one or all of the following groups of Medi-Cal beneficiaries:

(1) High-risk children, youth, and families.

(2) Pregnant, postpartum, and parenting women.

(3) Persons with human immunodeficiency virus infection.

(4) Homeless persons.

(5) Persons abusing alcohol, drugs, or both.

(6) Persons known to use multiple service providers.

(7) Persons with catastrophic or chronic illnesses.

(8) Elderly persons at risk of institutionalization.

(9) Adults at risk of abuse or neglect.

(c) A county that elects to make case management services available to the groups specified in subdivision (b) shall, for the purpose of obtaining federal medicaid matching funds, certify to the department the amount of funds expended on allowable targeted case management services.

(d) Upon federal approval for federal financial assistance, the department, in consultation with counties, and consistent with federal regulations including the State Medicaid Manual of the Department of Health and Human Services, Health Care Financing Administration, shall define case management services, shall establish the standards under which case management services qualify as a Medi-Cal reimbursable service, shall develop an appropriate rate of reimbursement, and shall develop a claiming system to certify local matching expenditures.

(e) The State Director of Health Services may require that the local government certify, in each fiscal year, that its expenditures represent costs that are eligible for federal financial participation for that fiscal year. Where this certification by the local government is required, the director shall determine whether that certification is adequately supported for purposes of federal financial participation.

(f) The state shall be held harmless from any federal disallowance resulting from payments made under this section. Any county that has received payments under this section shall be liable for any federal disallowance only with respect to the payments made to that county. The department shall recoup from a county the amount of any federal disallowance in the manner authorized by applicable laws and regulations.

(g) The use of local matching funds allowed by this section shall not create, lead to, or expand the health care funding obligations or service obligations for current or future years for any county, except as required by this section or as may be required by federal law.

(h) Case management services are services which assist clients to gain access to needed medical, social, educational, and other services.

Activities conducted by case managers may include, but are not limited to, all of the following:

(1) Assessment of client needs and personal support systems.

(2) Development of comprehensive individualized service plans.

(3) Coordination of services required to implement the individualized service plan.

(4) Health information, education, and referral services.

(5) Client monitoring to assess the efficacy of the plan.

(6) Advocacy for clients with service providers.

(7) Reevaluation and adaptation of the individualized service plan as necessary.

SEC. 4. Any county or city and county participating in programs authorized by this act shall provide funding to the State Department of Health Services for the department's costs to administer those programs. The sum of the funding provided by all participating counties or cities and counties shall not exceed one hundred twenty-five thousand dollars ($125,000) per annum, and shall be used by the department to be matched by federal funds to the full extent possible. Moneys received by the department pursuant to this section are hereby continuously appropriated to the department, and the funds shall be administered in accordance with procedures prescribed by the Department of Finance.

SEC. 5. The State Department of Health Services may adopt emergency regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and Sections 14105.4 and 14105.5 of the Welfare and Institutions Code, to implement this act. The adoption of those regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, or safety. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted by the department in order to implement this act shall not be subject to the review and approval of the Office of Administrative Law. These regulations shall become effective immediately upon filing with the Secretary of State.

SEC. 6. Section 3.5 of this bill incorporates amendments to Section 14132.44 of the Welfare and Institutions Code proposed by both this bill and AB 1341. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, but this bill becomes operative first, (2) each bill amends Section 14132.44 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 1341, in which case Section 14132.44 of the Welfare and Institutions Code, as amended by Section 3 of this bill, shall remain operative only until the operative date of AB 1341, at which time Section 3.5 of this bill shall become operative.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to avoid delay in the provision of case management services which assist Medi-Cal beneficiaries in gaining access to needed medical, social, educational, and other services, and to ensure continuity and adequacy of services for these clients, it is necessary that this act take effect immediately.

CHAPTER 1180

An act to amend Sections 1680, 2761, and 2878 of, and to add Section 2221.1 to, the Business and Professions Code, and to add Section 1250.11 to the Health and Safety Code, relating to blood-borne diseases.

[Approved by Governor October 14, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. (a) This act shall be known, and may be cited, as the Patient Protection Act of 1991 or the Thompson-Hunter Act of 1991.

(b) Every Californian has a right to the safest possible health care possible.

(c) It is the intent of the Legislature that all persons who receive health care in California be protected from exposure to blood-borne infectious diseases, including human immunodeficiency virus (HIV) and Hepatitis B virus (HBV).

(d) The Legislature hereby finds and declares all of the following:

(1) The same steps which protect patients from infection by health care workers will also help to prevent transmission of blood-borne infectious diseases from patient to patient and from patient to health care worker.

(2) The infection control procedures known as universal precautions which involve treating every patient and every health care worker as if they were infectious and might transmit disease are the most effective means of preventing transmission of all blood-borne infectious diseases from patient to patient, from health care worker to patient, and from patient to health care worker.

(3) The infection control procedures known as universal precautions include simple, commonsense measures, including, but not limited to, hand washing, gloving, and care in the use and disposal of needles and other sharp instruments as well as disinfection and sterilization of equipment.

(4) The California Division of Occupational Safety and Health has been enforcing infection control standards, including, but not limited to, universal precautions, for all health care employees in all health care settings in California for more than three years.

(5) The California Occupational Safety and Health Standards

Board has before it, regulations to ensure compliance with the federal Centers for Disease Control guidelines regarding preventing transmission of blood-borne pathogens, including, but not limited to, universal precautions.

(6) The State Department of Health Services currently enforces infection control standards, including, but not limited to, universal precautions, in all licensed health facilities.

(7) The federal Centers for Disease Control in the Morbidity and Mortality Report for July 12, 1991, found all of the following:

(A) Infected health care workers who adhere to universal precautions and who do not perform invasive procedures pose no risk for transmitting HIV or HBV to patients.

(B) Health care workers who perform certain invasive procedures may pose a remote risk of transmitting Hepatitis B or a more remote risk of transmitting HIV to patients and should observe appropriate precautions.

SEC. 2. Section 1680 of the Business and Professions Code is amended to read:

1680. Unprofessional conduct by a person licensed under this chapter is defined as, but is not limited to, the violation of any one of the following:

(a) The obtaining of any fee by fraud or misrepresentation.

(b) The employment directly or indirectly of any student or suspended or unlicensed dentist to practice dentistry as defined in this chapter.

(c) The aiding or abetting of any unlicensed person to practice dentistry.

(d) The aiding or abetting of a licensed person to practice dentistry unlawfully.

(e) The committing of any act or acts of gross immorality substantially related to the practice of dentistry.

(f) The use of any false, assumed or fictitious name, either as an individual, firm, corporation or otherwise, or any name other than the name under which he or she is licensed to practice, in advertising or in any other manner indicating that he or she is practicing or will practice dentistry, except that name as is specified in a valid permit issued pursuant to Section 1701.5.

(g) The practice of accepting or receiving any commission or the rebating in any form or manner of fees for professional services, radiograms, prescriptions or other services or articles supplied to patients.

(h) The making use by the licentiate or any agent of the licentiate of any advertising statements of a character tending to deceive or mislead the public.

(i) The advertising of either professional superiority or the advertising of performance of professional services in a superior manner. This subdivision shall not prohibit advertising permitted by subdivision (h) of Section 651.

(j) The employing or the making use of solicitors.

(k) The advertising in violation of Section 651.

(*l*) The advertising to guarantee any dental service, or to perform any dental operation painlessly. This subdivision shall not prohibit advertising permitted by Section 651.

(m) The violation of any of the provisions of law regulating the procurement, dispensing, or administration of dangerous drugs, as defined in Article 7 (commencing with Section 4211) of Chapter 9, or controlled substances, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code.

(n) The violation of any of the provisions of this division.

(o) The permitting of any person to operate dental radiographic equipment who has not met the requirements of Section 1656.

(p) The clearly excessive prescribing or administering of drugs or treatment, or the clearly excessive use of diagnostic procedures, or the clearly excessive use of diagnostic or treatment facilities, as determined by the customary practice and standards of the dental profession.

Any person who violates this subdivision is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) or more than six hundred dollars ($600) or by imprisonment for a term of not less than 60 days or more than 180 days or by both such fine and imprisonment.

(q) The use of threats or harassment against any patient or licentiate for providing evidence in any possible or actual disciplinary action, or other legal action; or the discharge of an employee primarily based on the employee's attempt to comply with the provisions of this chapter or to aid in the compliance.

(r) Suspension or revocation of a license issued by another state or territory on grounds which would be the basis of discipline in this state.

(s) The alteration of a patient's record with intent to deceive.

(t) Unsanitary or unsafe office conditions, as determined by the customary practice and standards of the dental profession.

(u) The abandonment of the patient by the licentiate, without written notice to the patient that treatment is to be discontinued and before the patient has ample opportunity to secure the services of another dentist and provided the health of the patient is not jeopardized.

(v) The willful misrepresentation of facts relating to a disciplinary action to the patients of a disciplined licentiate.

(w) Use of fraud in the procurement of any license issued pursuant to this chapter.

(x) Any action or conduct which would have warranted the denial of the license.

(y) The aiding or abetting of a licensed dentist or dental auxiliary to practice dentistry in a negligent or incompetent manner.

(z) The failure to report to the board in writing within seven days either: (1) the death of his or her patient during the performance of any dental procedure; or, (2) the discovery of the death of a patient

whose death is causally related to a dental procedure performed by him or her.

(aa) Participating in or operating any group advertising and referral services which is in violation of Section 650.2.

(bb) The failure to use a fail-safe machine with an appropriate exhaust system in the administration of nitrous oxide. The board shall by regulation define what constitutes a fail-safe machine.

(cc) Engaging in the practice of dentistry with an expired license.

(dd) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines, thereby risking transmission of blood-borne infectious diseases from dentist or dental auxiliary to patient, from patient to patient, and from patient to dentist or dental auxiliary by failing to follow infectious control guidelines. In administering this subdivision, the board shall consider the standards, regulations, and guidelines of the State Department of Health Services developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, guidelines, and regulations pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300), Division 5, Labor Code) for preventing the transmission of HIV, Hepatitis B, and other blood-borne pathogens in health care settings. As necessary, the board shall consult with the California Medical Board, the Board of Registered Nursing, and the Board of Vocational Nurse and Psychiatric Technician Examiners, to encourage appropriate consistency in the implementation of this section.

The board shall seek to ensure that licentiates and others regulated by the board are informed of the responsibility of licentiates and others to follow infection control guidelines, and of the most recent scientifically recognized safeguards for minimizing the risk of transmission of blood-borne infectious diseases.

SEC. 3. Section 2221.1 is added to the Business and Professions Code, to read:

2221.1. (a) The Medical Board of California shall investigate and may take disciplinary action, including, but not limited to, revocation or suspension of licenses, against physicians and surgeons and all others licensed or regulated by the board who, except for good cause, knowingly fail to protect patients by failing to follow infection control guidelines, thereby risking transmission of blood-borne infectious diseases from the physician and surgeon or other health care provider licensed or regulated by the board to patient, from patients, and from patient to physician or other health care provider regulated by the board. In so doing, the board shall consider the standards, regulations, and recommendations of the State Department of Health Services developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, guidelines, and regulations pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300), Division 5, Labor Code) for preventing the transmission of HIV, Hepatitis B, and other blood-borne pathogens in health care settings. As

necessary, the board shall consult with the Board of Dental Examiners, the Board of Registered Nursing, and the Board of Vocational Nurse and Psychiatric Technician Examiners, to encourage appropriate consistency in the implementation of this section.

(b) The board shall seek to ensure that licentiates and others regulated by the board are informed of the responsibility of licentiates to follow infection control guidelines and of the most recent scientifically recognized safeguards for minimizing the transmission of blood-borne infectious diseases.

SEC. 4. Section 2761 of the Business and Professions Code is amended to read:

2761. The board may take disciplinary action against a certified or licensed nurse or an applicant for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual nursing functions or nurse anesthetist functions.

(2) A conviction of practicing medicine without a license in violation of Chapter 5 (commencing with Section 2000), in which event the record of conviction shall be conclusive evidence thereof.

(3) The use of advertising relating to nursing which violates Section 17500.

(b) Procuring his or her certificate by fraud, misrepresentation, or mistake.

(c) Procuring, or aiding, or abetting, or attempting, or agreeing, or offering to procure or assist at a criminal abortion.

(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or regulations adopted pursuant to it.

(e) Making or giving any false statement or information in connection with the application for issuance of a license.

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

(g) Impersonating any applicant or acting as proxy for an applicant in any examination required under this chapter for the issuance of a license.

(h) Impersonating another licensed practitioner, or permitting or allowing another person to use his or her certificate for the purpose of nursing the sick or afflicted.

(i) Aiding or assisting, or agreeing to aid or assist any person or persons, whether a licensed physician or not, in the performance of, or arranging for, a violation of any of the provisions of Article 12 (commencing with Section 2221) of Chapter 5.

(j) Holding oneself out to the public or to any practitioner of the

healing arts as a "nurse practitioner" or as meeting the standards established by the board for a nurse practitioner unless meeting the standards established by the board pursuant to Article 8 (commencing with Section 2834).

(k) Revocation or suspension of a license to practice nursing by another state or territory of the United States for any act or omission which would constitute grounds for the revocation or suspension of a license in this state.

(*l*) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines, thereby risking transmission of blood-borne infectious diseases from licensed or certified nurse to patient, from patient to patient, and from patient to licensed or certified nurse. In administering this subdivision, the board shall consider the standards, regulations, and recommendations of the State Department of Health Services developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, guidelines, and regulations pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300), Division 5, Labor Code) for preventing the transmission of HIV, Hepatitis B, and other blood-borne pathogens in health care settings. As necessary, the board shall consult with the Medical Board of California, the Board of Dental Examiners, and the Board of Vocational Nurse and Psychiatric Technician Examiners, to encourage appropriate consistency in the implementation of this section.

The board shall seek to ensure that licentiates and others regulated by the board are informed of the responsibility of licentiates to minimize the risk of transmission of blood-borne infectious diseases from health care provider to patient, from patient to patient, and from patient to health care provider, and of the most recent scientifically recognized safeguards for minimizing the risks of transmission.

SEC. 5. Section 2878 of the Business and Professions Code is amended to read:

2878. The board may suspend or revoke a license issued under this chapter for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual nursing functions.

(2) A conviction of practicing medicine without a license in violation of Chapter 5 (commencing with Section 2000), in which event the record of conviction shall be conclusive evidence of the conviction.

(3) The use of advertising relating to nursing which violates Section 17500.

(b) Procuring a certificate by fraud, misrepresentation, or mistake.

(c) Procuring, or aiding, or abetting, or attempting, or agreeing,

or offering to procure or assist at a criminal abortion.

(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter.

(e) Making or giving any false statement or information in connection with the application for issuance of a license.

(f) Conviction of a crime substantially related to the qualifications, functions, and duties of a licensed vocational nurse, in which event the record of the conviction shall be conclusive evidence of the conviction.

(g) Impersonating any applicant or acting as proxy for an applicant in any examination required under this chapter for the issuance of a license.

(h) Impersonating another licensed vocational nurse or a registered nurse, or permitting or allowing another person to use his or her certificate for the purpose of nursing the sick or afflicted.

(i) Aiding or assisting, or agreeing to aid or assist any person or persons, whether a licensed physician or not, in the performance of or arranging for a violation of Article 12 (commencing with Section 2220) of Chapter 5.

(j) The use of excessive force upon, or the mistreatment or abuse of, any patient. For the purposes of this subdivision, "excessive force" means force clearly in excess of that which would normally be applied in similar clinical circumstances.

(k) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines, thereby risking transmission of blood-borne infectious diseases from licensee to patient, from patient to patient, and from patient to licensee. In administering this subdivision, the board shall consider the standards, regulations, and guidelines of the State Department of Health Services developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, guidelines, and regulations pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300), Division 5, Labor Code) for preventing the transmission of HIV, Hepatitis B, and other blood-borne pathogens in health care settings. As necessary, the board shall consult with the California Medical Board, the Board of Dental Examiners, and the Board of Registered Nursing, to encourage appropriate consistency in the implementation of this section.

The board shall seek to ensure that licentiates and others regulated by the board are informed of the responsibility of licentiates and others to follow infection control guidelines, and of the most recent scientifically recognized safeguards for minimizing the risk of transmission of blood-borne infectious diseases.

SEC. 6. Section 1250.11 is added to the Health and Safety Code, to read:

1250.11. The State Department of Health Services shall develop written guidelines and regulations as necessary to minimize the risk

of transmission of blood-borne infectious diseases from health care worker to patient, from patient to patient, and from patient to health care worker. In so doing, the state department shall consider the recommendations made by the federal Centers for Disease Control for preventing transmission of HIV and Hepatitis B. The state department shall also take into account existing regulations of the state department as well as standards, guidelines, and regulations pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300), Division 5, Labor Code) regarding infection control to prevent infection or disease as a result of the transmission of blood-borne pathogens. In so doing, the state department shall consult with the Medical Board of California, the Board of Dental Examiners, and the Board of Registered Nursing as well as associations representing health care professions, associations of licensed health facilities, organizations which advocate on behalf of those infected with HIV and organizations representing consumers of health care. The department shall complete its review of the need for guidelines and regulations by January 1, 1993.

SEC. 7. The State Department of Health Services may adopt emergency regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code to implement this act.

CHAPTER 1181

An act to amend Section 12302.1 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 12302.1 of the Welfare and Institutions Code is amended to read:

12302.1. (a) Contracts entered into by a county under Section 12302 shall be for terms not exceeding three years. In the event of a three-year contract, the county, at the end of the first contract term, may renew the contract for a second term not exceeding one year. The rate of reimbursement shall be negotiated consistent with regulations promulgated by the State Department of Social Services. For any extended contract, the rate shall reflect, but is not limited to, the following financial considerations:

(1) Actual expenditures by the contractor as documented during the first contract term and approved by the state.

(2) Changes in federal, state, or county program requirements.

(3) Federal and state minimum wage and contractual step merit

increases.

(4) Statutory taxes.

(5) Insurance costs.

(6) Other reasonable costs over which the contracting parties have no control.

The regulations promulgated by the department shall also establish standards governing acceptable contract provisions, the methods used to advertise, procure, select and award the contracts, and the procedures used to amend, renew, or extend an existing contract with the same contractor including, in addition to rate changes, any other change in other terms of the contract.

The county may temporarily extend the contract in accordance with the department's regulations in order to assure continuity of service, quality of care, or the competitive bid process.

All contracts awarded, extended or renewed pursuant to this section and all amendments to the contracts shall be subject to the prior review and approval of the department. No contract shall take effect until approved in writing by the State Department of Social Services.

(b) All contracts shall, in addition to including provisions required by Section 12303, be subject to all of the following:

(1) Prior to initiating a contract or contracts pursuant to Section 12302, the county shall publicize its intention to solicit bids to enter into the contracts.

(2) When the county has selected one or more contract proposals for tentative acceptance or intends to renew an existing contract, the county board of supervisors shall conduct a hearing on the proposed contract, contracts, or renewal, which shall be at a regularly scheduled meeting of the board of supervisors, and open to the public.

(3) Public findings based on the public hearing shall be made available to interested parties.

(4) No contract for services provided under this article shall take effect until 30 calendar days have elapsed from the time of the public hearing required under this section.

(5) The county board of supervisors may award one or more service contracts pursuant to this article based upon the fiscal responsibility of the service providers and experience of the service providers in providing services pursuant to this article. Nothing in this subdivision, however, shall preclude a requirement that contracts under this section be awarded on a competitive bid basis.

(6) The county, to insure fiscal and program compliance, shall review the contract during the contract term. The review may include, but shall not be limited to, a fiscal audit.

SEC. 2. Section 12302.1 of the Welfare and Institutions Code is amended to read:

12302.1. (a) Contracts entered into by a county under Section 12302 shall be for terms not exceeding three years. In the event of a three-year contract, the county, at the end of the first contract

term, may renew the contract for a second term not exceeding one year. The rate of reimbursement shall be negotiated consistent with regulations promulgated by the State Department of Social Services. For any extended contract, the rate shall reflect, but is not limited to, the following financial considerations:

(1) Actual expenditures by the contractor as documented during the first contract term and approved by the state.

(2) Changes in federal, state, or county program requirements.

(3) Federal and state minimum wage and contractual step merit increases.

(4) Statutory taxes.

(5) Insurance costs.

(6) Reasonable costs which have been approved by the county department of social services, as long as those costs do not increase unreimbursed county expenditures or lead to a reduction in client services, and those costs can be funded by the department for in-home supportive services contracts and the county's allocation for in-home supportive services.

(7) Other reasonable costs over which the contracting parties have no control.

The regulations promulgated by the department shall also establish standards governing acceptable contract provisions, the methods used to advertise, procure, select and award the contracts, and the procedures used to amend, renew, or extend an existing contract with the same contractor including, in addition to rate changes, any other change in other terms of the contract.

The county may temporarily extend the contract in accordance with the department's regulations in order to assure continuity of service, quality of care, or the competitive bid process.

All contracts awarded, extended or renewed pursuant to this section and all amendments to the contracts shall be subject to the prior review and approval of the department. No contract shall take effect until approved in writing by the State Department of Social Services.

(b) All contracts shall, in addition to including provisions required by Section 12303, be subject to all of the following:

(1) Prior to initiating a contract or contracts pursuant to Section 12302, the county shall publicize its intention to solicit bids to enter into the contracts.

(2) When the county has selected one or more contract proposals for tentative acceptance or intends to renew an existing contract, the county board of supervisors shall conduct a hearing on the proposed contract, contracts, or renewal, which shall be at a regularly scheduled meeting of the board of supervisors, and open to the public.

(3) Public findings based on the public hearing shall be made available to interested parties.

(4) No contract for services provided under this article shall take effect until 30 calendar days have elapsed from the time of the public

hearing required under this section.

(5) The county board of supervisors may award one or more service contracts pursuant to this article based upon the fiscal responsibility of the service providers and the experience of the service providers in providing services pursuant to this article. The county board of supervisors may evaluate the bid proposal, the experience of the provider, the program plan, and the proposed contract rate, to determine if a bidder has demonstrated the ability to reasonably provide and sustain uninterrupted, continuous services to recipients as required under the county's invitation for bid, prior to making a contract award. Nothing in this subdivision, however, shall preclude a requirement that contracts under this section be awarded on a competitive bid basis.

(6) The county, to ensure fiscal and program compliance, shall review the contract during the contract term. The review may include, but shall not be limited to, a fiscal audit.

SEC. 3. Section 2 of this bill incorporates amendments to Section 12302.1 of the Welfare and Institutions Code proposed by both this bill and AB 1155. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 12302.1 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 1155, in which case Section 1 of this bill shall not become operative.

CHAPTER 1182

An act to amend Section 12302.1 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 12302.1 of the Welfare and Institutions Code is amended to read:

12302.1. (a) Contracts entered into by a county under Section 12302 shall be for terms not exceeding two years. In the event of a two-year contract, the county, at the end of the first contract term, may renew the contract for a second term not exceeding one year. The rate of reimbursement shall be negotiated consistent with regulations promulgated by the State Department of Social Services. For any extended contract, the rate shall reflect, but is not limited to the following financial considerations:

(1) Actual expenditures by the contractor as documented during the first contract term and approved by the state.

(2) Changes in federal, state, or county program requirements.

(3) Federal and state minimum wage and contractual step merit

increases.

(4) Statutory taxes.

(5) Insurance costs.

(6) Reasonable costs which have been approved by the county department of social services, as long as those costs do not increase unreimbursed county expenditures or lead to a reduction in client services, and those costs can be funded within the maximum allowable rates set by the department for in-home supportive services contracts and the county's state allocation for in-home supportive services.

(7) Other reasonable costs over which the contracting parties have no control.

The regulations promulgated by the department shall also establish standards governing acceptable contract provisions, the methods used to advertise, procure, select and award the contracts, and the procedures used to amend, renew, or extend an existing contract with the same contractor including, in addition to rate changes, any other change in other terms of the contract.

The county may temporarily extend the contract in accordance with the department's regulations in order to assure continuity of service, quality of care, or the competitive bid process.

All contracts awarded, extended or renewed pursuant to this section and all amendments to the contracts shall be subject to the prior review and approval of the department. No contract shall take effect until approved in writing by the State Department of Social Services.

(b) All contracts shall, in addition to including provisions required by Section 12303, be subject to the following:

(1) Prior to initiating a contract or contracts pursuant to Section 12302, the county shall publicize its intention to solicit bids to enter into the contracts.

(2) When the county has selected one or more contract proposals for tentative acceptance or intends to renew an existing contract, the county board of supervisors shall conduct a hearing on the proposed contract, contracts, or renewal, which shall be at a regularly scheduled meeting of the board of supervisors, and open to the public.

(3) Public findings based on the public hearing shall be made available to interested parties.

(4) No contract for services provided under this article shall take effect until 30 calendar days have elapsed from the time of the public hearing required under this section.

(5) The county board of supervisors may award one or more service contracts pursuant to this article based upon the fiscal responsibility of the service providers and the experience of the service providers in providing services pursuant to this article. The county board of supervisors may evaluate the bid proposal, the experience of the provider, the program plan, and the proposed contract rate, to determine if a bidder has demonstrated the ability

to reasonably provide and sustain uninterrupted, continuous services to recipients as required under the county's invitation for bid, prior to making a contract award. Nothing in this subdivision, however, shall preclude a requirement that contracts under this section be awarded on a competitive bid basis.

(6) The county, to ensure fiscal and program compliance, shall review the contract during the contract term. The review may include, but shall not be limited to, a fiscal audit.

SEC. 2. Section 12302.1 of the Welfare and Institutions Code is amended to read:

12302.1. (a) Contracts entered into by a county under Section 12302 shall be for terms not exceeding three years. In the event of a three-year contract, the county, at the end of the first contract term, may renew the contract for a second term not exceeding one year. The rate of reimbursement shall be negotiated consistent with regulations promulgated by the State Department of Social Services. For any extended contract, the rate shall reflect, but is not limited to, the following financial considerations:

(1) Actual expenditures by the contractor as documented during the first contract term and approved by the state.

(2) Changes in federal, state, or county program requirements.

(3) Federal and state minimum wage and contractual step merit increases.

(4) Statutory taxes.

(5) Insurance costs.

(6) Reasonable costs which have been approved by the county department of social services, as long as those costs do not increase unreimbursed county expenditures or lead to a reduction in client services, and those costs can be funded within the maximum allowable rates set by the department for in-home supportive services contracts and the county's state allocation for in-home supportive services.

(7) Other reasonable costs over which the contracting parties have no control.

The regulations promulgated by the department shall also establish standards governing acceptable contract provisions, the methods used to advertise, procure, select and award the contracts, and the procedures used to amend, renew, or extend an existing contract with the same contractor including, in addition to rate changes, any other change in other terms of the contract.

The county may temporarily extend the contract in accordance with the department's regulations in order to assure continuity of service, quality of care, or the competitive bid process.

All contracts awarded, extended or renewed pursuant to this section and all amendments to the contracts shall be subject to the prior review and approval of the department. No contract shall take effect until approved in writing by the State Department of Social Services.

(b) All contracts shall, in addition to including provisions required

by Section 12303, be subject to all of the following:

(1) Prior to initiating a contract or contracts pursuant to Section 12302, the county shall publicize its intention to solicit bids to enter into the contracts.

(2) When the county has selected one or more contract proposals for tentative acceptance or intends to renew an existing contract, the county board of supervisors shall conduct a hearing on the proposed contract, contracts, or renewal, which shall be at a regularly scheduled meeting of the board of supervisors, and open to the public.

(3) Public findings based on the public hearing shall be made available to interested parties.

(4) No contract for services provided under this article shall take effect until 30 calendar days have elapsed from the time of the public hearing required under this section.

(5) The county board of supervisors may award one or more service contracts pursuant to this article based upon the fiscal responsibility of the service providers and the experience of the service providers in providing services pursuant to this article. The county board of supervisors may evaluate the bid proposal, the experience of the provider, the program plan, and the proposed contract rate, to determine if a bidder has demonstrated the ability to reasonably provide and sustain uninterrupted, continuous services to recipients as required under the county's invitation for bid, prior to making a contract award. Nothing in this subdivision, however, shall preclude a requirement that contracts under this section be awarded on a competitive bid basis.

(6) The county, to insure fiscal and program compliance, shall review the contract during the contract term. The review may include, but shall not be limited to, a fiscal audit.

SEC. 3. Section 2 of this bill incorporates amendments to Section 12302.1 of the Welfare and Institutions Code proposed by both this bill and SB 792. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 12302.1 of the Welfare and Institutions Code, and (3) this bill is enacted after SB 792, in which case Section 1 of this bill shall not become operative.

CHAPTER 1183

An act to amend Sections 39003 and 39120 of the Education Code, to amend Section 65759 of, and to repeal and add Section 65850.2 of, the Government Code, to amend Sections 13143.9, 25534.1, 25535, 25538, 25541, 42301.6, and 42301.9 of, and to add Sections 25501.3, 25507.10, 25514.3, and 25534.2 to, the Health and Safety Code, and to amend Sections 21151.4 and 21151.8 of, and to repeal Section 21151.3 of, the Public Resources Code, relating to hazardous materials.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 39003 of the Education Code is amended to read:

39003. The governing board of a school district shall not approve a project involving the acquisition of a schoolsite by a school district unless all of the following occur:

(a) The lead agency, as defined in Section 21067 of the Public Resources Code, determines that the property purchased or to be built upon is not any of the following:

(1) The site of a current or former hazardous waste disposal site or solid waste disposal site unless, if the site was a former solid waste disposal site, the governing board of the school district concludes that the wastes have been removed.

(2) A hazardous substance release site identified by the State Department of Health Services in a current list adopted pursuant to Section 25356 for removal or remedial action pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code.

(3) A site which contains one or more pipelines, situated underground or aboveground, which carries hazardous substances, acutely hazardous materials, or hazardous wastes, unless the pipeline is a natural gas line which is used only to supply natural gas to that school or neighborhood.

(b) The lead agency, as defined in Section 21067 of the Public Resources Code, preparing the environmental impact report or negative declaration has consulted with the administering agency in which the proposed schoolsite is located and with any air pollution control district or air quality management district having jurisdiction in the area, to identify facilities within one-fourth of a mile of the proposed schoolsite which might reasonably be anticipated to emit hazardous air emissions, or to handle hazardous or acutely hazardous materials, substances, or waste. The lead agency shall include a list of the locations for which information is sought.

(c) The governing board of the school district makes one of the following written findings:

(1) Consultation identified none of the facilities specified in subdivision (b).

(2) The facilities specified in subdivision (b) exist, but one of the following conditions applies:

(A) The health risks from the facilities do not and will not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the school.

(B) The governing board finds that corrective measures required under an existing order by another jurisdiction which has jurisdiction over the facilities will, before the school is occupied, result in the mitigation of all chronic or accidental hazardous air emissions to levels that do not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the proposed school. If the governing board makes this finding, the governing board shall also make a subsequent finding, prior to the occupancy of the school, that the emissions have been mitigated to these levels.

(d) As used in this section:

(1) "Hazardous air emissions" means emissions into the ambient air of air contaminants which have been identified as a toxic air contaminant by the State Air Resources Board or by the air pollution control officer for the jurisdiction in which the project is located. As determined by the air pollution control officer, hazardous air emissions also means emissions into the ambient air from any substance identified in subdivisions (a) to (f), inclusive, of Section 44321 of the Health and Safety Code.

(2) "Hazardous substance" means any substance defined in Section 25316 of the Health and Safety Code.

(3) "Acutely hazardous material" means any material defined pursuant to subdivision (a) of Section 25532 of the Health and Safety Code.

(4) "Hazardous waste" means any waste defined in Section 25117 of the Health and Safety Code.

(5) "Hazardous waste disposal site" means any site defined in Section 25114 of the Health and Safety Code.

(6) "Administering agency" means any agency designated pursuant to Section 25502 of the Health and Safety Code.

(7) "Handle" means handle as defined in Article 1 (commencing with Section 25500) of Chapter 6.95 of Division 20 of the Health and Safety Code.

SEC. 2. Section 39120 of the Education Code is amended to read:

39120. (a) The governing board of a school district shall not approve a project for the construction of a new school building, as defined in Section 39141, unless the project and its lead agency comply with the same requirements specified in subdivision (a) of Section 39003 for schoolsite acquisition.

(b) For purposes of this section, the acceptance of construction bids shall constitute approval of the project.

SEC. 3. Section 65759 of the Government Code is amended to

read:

65759. In any action brought under this section:

(a) The California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code, does not apply to any action necessary to bring its general plan or relevant mandatory elements of the plan into compliance with any court order or judgment under this article.

(1) The local agency shall, however, prepare an initial study, within the time limitations specified in Section 65754, to determine the environmental effects of the proposed action necessary to comply with the court order. The initial study shall contain substantially the same information as is required for an initial study pursuant to subdivision (c) of Section 15080 of Title 14 of the California Code of Regulations.

(2) If as a result of the initial study, the local agency determines that the action may have a significant effect on the environment, the local agency shall prepare, within the time limitations specified in Section 65754, an environmental assessment, the content of which substantially conforms to the required content for a draft environmental impact report set forth in Article 9 (commencing with Section 15140) of Title 14 of the California Code of Regulations. The local agency shall include notice of the preparation of the environmental assessment in all notices provided for the amendments to the general plan proposed to comply with the court order.

(3) The environmental assessment shall be deemed to be a part of the general plan and shall only be reviewable as provided in this article.

(4) The local agency may comply with the provisions of the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code, in any action necessary to bring its general plan or the plan's relevant mandatory elements into compliance with any court order or judgment under this section so long as it does so within the time limitations specified in Section 65754.

(b) The court for good cause shown may grant not more than two extensions of time, not to exceed a total of 240 days, in order to meet the requirements imposed by Section 65754.

SEC. 4. Section 65850.2 of the Government Code is repealed:

SEC. 5. Section 65850.2 is added to the Government Code, to read:

65850.2. (a) Each city and each county shall include in its information list compiled pursuant to Section 65940 for development projects, or application form for projects which do not require a development permit other than a building permit, both of the following:

(1) The requirement that the owner or authorized agent shall indicate whether the owner or authorized agent will need to comply with the applicable requirements of Sections 25505, 25533, and 25534

of the Health and Safety Code and the requirements for a permit for construction or modification from the air pollution control district or air quality management district exercising jurisdiction in the area governed by the city or county.

(2) The requirement that the owner or authorized agent shall certify whether or not the proposed project will handle, as defined in Article 1 (commencing with Section 25500) of Chapter 6.95 of Division 20 of the Health and Safety Code, an acutely hazardous material or a mixture containing an acutely hazardous material, in a quantity equal to or greater than the quantity specified in subdivision (a) of Section 25536 of the Health and Safety Code, or will contain a source or modified source with hazardous air emissions.

(b) No city or county shall find the application complete pursuant to Section 65943 nor approve a development project, or a building permit for a project which does not require a development permit other than a building permit, in which acutely hazardous material or mixtures containing acutely hazardous material will be handled in a quantity equal to or greater than that specified in Section 25536 of the Health and Safety Code, unless the owner or authorized agent for the project first obtains from the administering agency, a notice of requirement to comply with, or determination of exemption from, the requirement to prepare and submit a risk management and prevention program. Within five days of submitting the project application to the city or county, the applicant shall submit the information required pursuant to paragraph (2) of subdivision (a) to the administering agency. This notice of requirement to comply with, or determination of exemption from, the requirement for an RMPP shall be provided by the administering agency to the applicant, and the applicant shall provide the notice to the city or county, within 25 days of the administering agency receiving adequate information from the applicant to make a determination as to the requirement for an RMPP. The notice of requirement to comply shall indicate if any of the acutely hazardous material to be handled at the site would create an acutely hazardous materials accident risk to any of the populations specified pursuant to Section 25534.1 of the Health and Safety Code. If the notice indicates an acutely hazardous materials accident risk may be present for any of the specified populations, no permit shall be issued until the administering agency has verified to the city or county within 90 days of the determination as to the requirement for an RMPP that the requirement for a risk management and prevention program is being substantially met. If within 90 days the administering agency has not verified that the requirement for the RMPP is being substantially met, then this section shall be deemed satisfied. If the notice of requirement to comply does not indicate that an acutely hazardous materials accident risk exists for the populations considered but does not exempt the requirement for an RMPP, a permit may be issued when all other permit conditions have been met. The requirement to submit an RMPP to the administering

agency, shall be met prior to the issuance of a certificate of occupancy or its substantial equivalent. The owner or authorized agent shall submit to the city or county certification from the air pollution control officer that the owner or authorized agent is in compliance with the disclosures required by Section 42303 of the Health and Safety Code.

(c) No city or county shall issue a final certificate of occupancy or its substantial equivalent unless there is verification from the administering agency, if required by law, that the owner or authorized agent has met, or is meeting, the applicable requirements of Sections 25505, 25533, and 25534 of the Health and Safety Code, and the requirements for a permit, if required by law, from the air pollution control district or air quality management district exercising jurisdiction in the area governed by the city or county or has provided proof from the appropriate district that the permit requirements do not apply to the owner or authorized agent.

(d) The city or county, after considering the recommendations of the administering agency or air pollution control district or air quality management district, shall decide whether, and under what conditions, to allow construction of the site.

(e) Nothing in this section limits any existing authority of a district to require compliance with its rules and regulations.

(f) Counties and cities may adopt a schedule of fees for applications for compliance with this section sufficient to recover their reasonable costs of carrying out this section. Those fees shall be used only for the implementation of this section.

(g) As used in this section:

(1) "Acutely hazardous material" means any material as defined pursuant to subdivision (a) of Section 25532 of the Health and Safety Code.

(2) "Administering agency" means an agency designated pursuant to Section 25502 of the Health and Safety Code.

(3) "Hazardous air emissions" means emissions into the ambient air of air contaminants which have been identified as a toxic air contaminant by the State Air Resources Board or by the air pollution control officer for the jurisdiction in which the project is located. As determined by the air pollution control officer, hazardous air emissions also means emissions into the ambient air of any substance identified in subdivisions (a) to (f), inclusive, of Section 44321 of the Health and Safety Code.

(h) Any misrepresentation of information required by this section shall be grounds for denial, suspension, or revocation of project approval or permit issuance. The owner or authorized agent required to comply with this section shall notify all future occupants of their potential duty to comply with the requirements of Sections 25505, 25533, 25534 of the Health and Safety Code.

(i) This section shall not apply to applications solely for residential construction.

SEC. 6. Section 13143.9 of the Health and Safety Code is amended

to read:

13143.9. The State Fire Marshal shall, in carrying out Section 13143, prepare, adopt, and submit building standards and other fire and life safety regulations for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 establishing minimum requirements for the storage, handling, and use of hazardous materials, as defined, in Article 9 of the 1988 Uniform Fire Code, and any subsequent editions, published by the Western Fire Chiefs Association and the International Conference of Building Officials. The State Fire Marshal shall seek the advice of the Office of Emergency Services in establishing these requirements. This section does not prohibit a city, county, or district from adopting an ordinance, resolution, or regulation imposing stricter or more stringent requirements than a standard adopted pursuant to this section.

SEC. 7. Section 25501.3 is added to the Health and Safety Code, to read:

25501.3. "Handle" also means the use or potential for use of a quantity of hazardous material by the connection of any marine vessel, tank vehicle, tank car, or container to a system or process for any purpose other than the immediate transfer to or from an approved atmospheric tank or approved portable tank.

SEC. 8. Section 25507.10 is added to the Health and Safety Code, to read:

25507.10. The emergency rescue personnel, responding to the reported release or threatened release of an acutely hazardous material or to any fire or explosion involving a material that involves a release that would be required to be reported pursuant to Section 25507, shall immediately advise the superintendent of the school district having jurisdiction, where the location of the release or threatened release is within one-half mile of a school.

SEC. 9. Section 25514.3 is added to the Health and Safety Code, to read:

25514.3. Any person that knowingly violates Section 25503.5, 25503.7, 25503.8, 25505, 25508, 25509, 25509.3, 25510, or 25533 after reasonable notice of the violation, is, upon conviction, guilty of a misdemeanor. This section does not preempt any other applicable criminal or civil penalties.

SEC. 10. Section 25534.1 of the Health and Safety Code is amended to read:

25534.1. Every RMPP prepared pursuant to Section 25534, and every notice of requirement to comply prepared pursuant to subdivision (b) of Section 65850.2 of the Government Code, shall give consideration to the proximity of the facility or proposed facility to populations located in schools, residential areas, general acute care hospitals, long-term health care facilities, and child day care facilities. For purposes of this section, "general acute care hospital" has the meaning provided by subdivision (a) of Section 1250, "long-term health care facility" has the meaning provided by subdivision (a) of

Section 1418, and "child day care facility" has the meaning provided by Section 1596.750. "School" means any school used for the purpose of the education of more than 12 children in kindergarten or any grades 1 to 12, inclusive.

SEC. 10.5. Section 25534.2 is added to the Health and Safety Code, to read:

25534.2. An owner or operator of any new or modified facility which will be used for the handling of acutely hazardous materials in amounts equal to or greater than those specified in subdivision (a) of Section 25536, shall obtain from the administering agency, a notice of requirement to comply with, or determination of exemption from, the requirement for an RMPP prior to the approval of a development project or issuance of a building permit pursuant to Section 65850.2 of the Government Code.

SEC. 11. Section 25535 of the Health and Safety Code is amended to read:

25535. (a) An owner or operator of a facility submitting an RMPP pursuant to Section 25534 shall submit the RMPP to the administering agency after the RMPP is certified as complete by a qualified person and the facility operator. The administering agency may authorize the air pollution control district or air quality management district in which the facility is located to conduct a technical review of the RMPP. If, after review by the administering agency or the air pollution control district or air quality management district exercising jurisdiction in the area of the facility, the administering agency determines that the handler's RMPP is deficient in any way, the administering agency shall notify the handler of these defects. The handler shall submit a corrected RMPP within 60 days of the notification of defects, unless granted a one-time extension of no more than 30 days, of the notice to correct the RMPP by the administering agency. Failure to fully comply with this notice or the requirements of this section shall be deemed a violation of this article for purposes of Section 25540.

(b) Upon implementation of a risk management and prevention program pursuant to subdivision (k) of Section 25534, the handler shall notify the administering agency that the RMPP has been implemented and shall summarize the steps taken in preparation and implementation of the RMPP.

(c) The handler shall continue to carry out the program and activities specified in the risk management and prevention program at the business after the administering agency has been notified pursuant to subdivision (b).

(d) The owner or operator shall implement all programs and activities in the RMPP before operations commence, in the case of a new facility, or before any new activities involving acutely hazardous materials are taken, in the case of a modified facility.

SEC. 12. Section 25538 of the Health and Safety Code is amended to read:

25538. (a) If a business believes that any information required to

be reported by this article, involves the release of a trade secret, the business shall provide the information to the administering agency and shall notify the administering agency in writing of that belief. Upon receipt of a claim of trade secret related to a RMPP, the administering agency shall review the claim and shall segregate properly substantiated trade secret information from information which shall be made available to the public upon request in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). As used in this section, "trade secret" has the same meaning as found in subdivision (d) of Section 6254.7 of the Government Code and Section 1060 of the Evidence Code.

(b) Except as otherwise specified in this section, the administering agency shall not disclose any properly substantiated trade secret which is so designated by the owner or operator of a business.

(c) The administering agency may disclose trade secrets received by the administering agency pursuant to this article to authorized officers or employees of other governmental agencies only in connection with the official duties of that officer or employee pursuant to any law for the protection of health and safety.

(d) Any officer or employee or former officer or employee of the administering agency or any other government agency who, because of that employment or official position, has possession of, or has access to, information designated as a trade secret pursuant to this section, shall not knowingly and willfully disclose the information in any manner to any person not authorized to receive the information pursuant to this section. Notwithstanding Section 25515, any person who violates this subdivision, and who knows that disclosure of this information to the general public is prohibited by the section, shall, upon conviction, be punished by imprisonment in the county jail for not more than six months or by a fine of not more than one thousand dollars ($1,000), or by both fine and imprisonment.

(e) Any information prohibited from disclosure pursuant to any federal statute or regulation shall not be disclosed.

(f) This section does not authorize any business to refuse to disclose to the administering agency any information required pursuant to this chapter.

SEC. 13. Section 25541 of the Health and Safety Code is amended to read:

25541. Any person or business who knowingly makes any false statement or representation in any record, report, or other document filed, maintained, or used for the purpose of compliance with this article, or destroys, alters, or conceals any such record, report, or other document filed, maintained, or used for the purpose of compliance with this article, shall, upon conviction, be punished by a fine of not more than twenty-five thousand dollars ($25,000) for each day of violation, or by imprisonment in the county jail for not more than one year, or by both the fine and the imprisonment.

If the conviction is for a violation committed after a first conviction under this section, the person shall be punished by a fine of not less than two thousand dollars ($2,000) or more than fifty thousand dollars ($50,000) per day of violation, or by imprisonment in the state prison for one, two, or three years or in the county jail for not more than one year, or both the fine and imprisonment.

Furthermore, if the violation results in, or significantly contributes to, an emergency, including a fire, to which the county or city is required to respond, the person shall also be assessed the full cost of the county or city emergency response, as well as the cost of cleaning up and disposing of the acutely hazardous materials.

SEC. 14. Section 42301.6 of the Health and Safety Code is amended to read:

42301.6. (a) Prior to approving an application for a permit to construct or modify a source which emits hazardous air emissions, which source is located within 1,000 feet from the outer boundary of a schoolsite, the air pollution control officer shall prepare a public notice in which the proposed project or modification for which the application for a permit is made is fully described. The notice may be prepared whether or not the material is or would be subject to subdivision (a) of Section 25536, if the air pollution control officer determines and the administering agency concurs that hazardous air emissions of the material may result from an air release, as defined by Section 44303. The notice may be combined with any other notice on the project or permit which is required by law.

(b) The air pollution control officer shall, at the permit applicant's expense, distribute or mail the public notice to the parents or guardians of children enrolled in any school that is located within one-quarter mile of the source and to each address within a radius of 1,000 feet of the proposed new or modified source at least 30 days prior to the date final action on the application is to be taken by the officer. The officer shall review and consider all comments received during the 30 days after the notice is distributed, and shall include written responses to the comments in the permit application file prior to taking final action on the application.

(1) Notwithstanding Section 49073 of the Education Code, or any other provision of law, the information necessary to mail notices required by this section shall be made available by the school district to the air pollution control officer.

(2) Nothing in this subdivision precludes, at the discretion of the air pollution control officer and with permission of the school, the distribution of the notices to the children to be given to their parents or guardians.

(c) Notwithstanding subdivision (b), an air pollution control officer may require the applicant to distribute the notice if the district had such a rule in effect prior to January 1, 1989.

(d) The requirements for public notice pursuant to subdivision (b) or a district rule in effect prior to January 1, 1989, are fulfilled if the air pollution control officer or applicant responsible for giving

the notice makes a good faith effort to follow the procedures prescribed by law for giving the notice, and, in these circumstances, failure of any person to receive the notice shall not affect the validity of any permit subsequently issued by the officer.

(e) Nothing in this section shall be deemed to limit any existing authority of any district.

(f) An applicant for a permit shall certify whether the proposed source or modification is located within 1,000 feet of a schoolsite. Misrepresentation of this fact may result in the denial of a permit.

(g) The notice requirements of this section shall not apply if the air pollution control officer determines that the application to construct or modify a source will result in a reduction or equivalent amount of air contaminants, as defined in Section 39013, or which are hazardous air emissions.

(h) As used in this section:

(1) "Hazardous air emissions" means emissions into the ambient air of air contaminants which have been identified as a toxic air contaminant by the state board or by the air pollution control officer for the jurisdiction in which the project is located. As determined by the air pollution control officer, hazardous air emissions also means emissions into the ambient air from any substances identified in subdivisions (a) to (f), inclusive, of Section 44321 of the Health and Safety Code.

(2) "Acutely hazardous material" means any material defined pursuant to subdivision (a) of Section 25532.

SEC. 15. Section 42301.9 of the Health and Safety Code is amended to read:

42301.9. For the purposes of Sections 42301.4 to 42301.8, inclusive:

(a) "School" means any public or private school used for purposes of the education of more than 12 children in kindergarten or any of grades 1 to 12, inclusive, but does not include any private school in which education is primarily conducted in private homes.

(b) "Air contaminant" means any contaminant defined pursuant to Section 39013.

(c) "Administering agency" means an agency designated pursuant to Section 25502.

(d) "Handle" means handle as defined in Article 1 (commencing with Section 25500) of Chapter 6.95 of Division 20 of the Health and Safety Code.

SEC. 16. Section 21151.3 of the Public Resources Code is repealed.

SEC. 17. Section 21151.4 of the Public Resources Code is amended to read:

21151.4. No environmental impact report or negative declaration shall be approved for any project involving the construction or alteration of a facility within ¼ of a mile of a school which might reasonably be anticipated to emit hazardous or acutely hazardous air emission, or which would handle acutely hazardous material or a mixture containing acutely hazardous material in a quantity equal to

or greater than the quantity specified in subdivision (a) of Section 25536 of the Health and Safety Code, which may pose a health or safety hazard to persons who would attend or would be employed at the school, unless both of the following occur:

(a) The lead agency preparing the environmental impact report or negative declaration has consulted with the school district having jurisdiction regarding the potential impact of the project on the school.

(b) The school district has been given written notification of the project not less than 30 days prior to the proposed approval of the environmental impact report or negative declaration.

SEC. 18. Section 21151.8 of the Public Resources Code is amended to read:

21151.8. (a) No environmental impact report or negative declaration shall be approved for any project involving the purchase of a schoolsite or the construction of a new elementary or secondary school by a school district unless all of the following occur:

(1) The environmental impact report or negative declaration includes information which is needed to determine if the property proposed to be purchased, or to be constructed upon, is any of the following:

(A) The site of a current or former hazardous waste disposal site or solid waste disposal site and, if so, whether the wastes have been removed.

(B) A hazardous substance release site identified by the State Department of Health Services in a current list adopted pursuant to Section 25356 for removal or remedial action pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code.

(C) A site which contains one or more pipelines, situated underground or aboveground, which carries hazardous substances, acutely hazardous materials, or hazardous wastes, unless the pipeline is a natural gas line which is used only to supply natural gas to that school or neighborhood.

(2) The lead agency preparing the environmental impact report or negative declaration has notified in writing and consulted with the administering agency in which the proposed schoolsite is located, and with any air pollution control district or air quality management district having jurisdiction in the area, to identify facilities within one-fourth of a mile of the proposed schoolsite which might reasonably be anticipated to emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste. The notification by the lead agency shall include a list of the locations for which information is sought.

(3) The governing board of the school district makes one of the following written findings:

(A) Consultation identified no such facilities specified in paragraph (2).

(B) The facilities specified in paragraph (2) exist, but one of the

following conditions applies:

(i) The health risks from the facilities do not and will not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the proposed school.

(ii) Corrective measures required under an existing order by another agency having jurisdiction over the facilities will, before the school is occupied, result in the mitigation of all chronic or accidental hazardous air emissions to levels that do not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the proposed school. If the governing board makes such a finding, it shall also make a subsequent finding, prior to occupancy of the school, that the emissions have been so mitigated.

(4) Each administering agency, air pollution control district, or air quality management district receiving written notification from a lead agency to identify facilities pursuant to paragraph (2) shall provide the requested information and provide a written response to the lead agency within 30 days of receiving the notification. The environmental impact report or negative declaration shall be conclusively presumed to comply with this section as to the area of responsibility of any agency which does not respond within 30 days.

(b) If a lead agency has carried out the consultation required by paragraph (2) of subdivision (a), the environmental impact report or the negative declaration shall be conclusively presumed to comply with this section, notwithstanding any failure of the consultation to identify an existing facility specified in paragraph (2) of subdivision (a).

(c) As used in this section and Section 21151.4, the following definitions shall apply:

(1) "Hazardous substance" means any substance defined in Section 25316 of the Health and Safety Code.

(2) "Acutely hazardous material" means any material defined pursuant to subdivision (a) of Section 25532 of the Health and Safety Code.

(3) "Hazardous waste" means any waste defined in Section 25117 of the Health and Safety Code.

(4) "Hazardous waste disposal site" means any site defined in Section 25114 of the Health and Safety Code.

(5) "Hazardous air emissions" means emissions into the ambient air of air contaminants which have been identified as a toxic air contaminant by the State Air Resources Board or by the air pollution control officer for the jurisdiction in which the project is located. As determined by the air pollution control officer, hazardous air emissions also means emissions into the ambient air from any substances identified in subdivisions (a) to (f), inclusive, of Section 44321 of the Health and Safety Code.

(6) "Administering agency" means an agency designated pursuant to Section 25502 of the Health and Safety Code.

(7) "Handle" means handle as defined in Article 1 (commencing

with Section 25500) of Chapter 6.95 of Division 20 of the Health and Safety Code.

SEC. 19. Sections 3, 5, 10, 10.5, 11, 14, 15, and 17 of this act shall not apply to projects for which an application is submitted pursuant to Section 65943 of the Government Code prior to January 1, 1992.

SEC. 20. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

Moreover, no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for other costs because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for those other costs.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 21. If any provision of this act or its application to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

CHAPTER 1184

An act to amend Sections 422.6, 422.7, and 1170.75 of the Penal Code, relating to civil rights.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 422.6 of the Penal Code is amended to read:

422.6. (a) No person, whether or not acting under color of law, shall by force or threat of force willfully injure, intimidate, interfere with, oppress, or threaten any other person in the free exercise or

enjoyment of any right or privilege secured to him or her by the constitution or laws of this state or by the Constitution or laws of the United States because of the other person's race, color, religion, ancestry, national origin, gender, or sexual orientation.

(b) No person, whether or not acting under color of law, shall knowingly deface, damage, or destroy the real or personal property of any other person for the purpose of intimidating or interfering with the free exercise or enjoyment of any right or privilege secured to the other person by the constitution or laws of this state or by the Constitution or laws of the United States because of the other person's race, color, religion, ancestry, national origin, gender, or sexual orientation.

(c) Any person convicted of violating subdivision (a) or (b) shall be punished by imprisonment in a county jail not to exceed six months, by a fine not to exceed five thousand dollars ($5,000), or by both that imprisonment and fine. However, no person shall be convicted of violating subdivision (a) based upon speech alone, except upon a showing that the speech itself threatened violence against a specific person or group of persons and that the defendant had the apparent ability to carry out the threat.

SEC. 1.5. Section 422.6 of the Penal Code is amended to read:

422.6. (a) No person, whether or not acting under color of law, shall by force or threat of force, willfully injure, intimidate, interfere with, oppress, or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him or her by the constitution or laws of this state or by the Constitution or laws of the United States because of the other person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation.

(b) No person, whether or not acting under color of law, shall knowingly deface, damage, or destroy the real or personal property of any other person for the purpose of intimidating or interfering with the free exercise or enjoyment of any right or privilege secured to the other person by the constitution or laws of this state or by the Constitution or laws of the United States, because of the other person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation.

(c) Any person convicted of violating subdivision (a) or (b) shall be punished by imprisonment in a county jail not to exceed one year, or by a fine not to exceed five thousand dollars ($5,000), or by both that imprisonment and fine. However, no person shall be convicted of violating subdivision (a) based upon speech alone, except upon a showing that the speech itself threatened violence against a specific person or group of persons and that the defendant had the apparent ability to carry out the threat.

SEC. 2. Section 422.7 of the Penal Code is amended to read:

422.7. Except in the case of a violation of subdivision (a) or (b) of Section 422.6, any crime which is not made punishable by imprisonment in the state prison shall be punishable by imprisonment in the state prison or in a county jail not to exceed one

year, by a fine not to exceed ten thousand dollars ($10,000), or by both that imprisonment and fine, if the crime is committed against the person or property of another for the purpose of intimidating or interfering with that other person's free exercise or enjoyment of any right secured to him or her by the constitution or laws of this state or by the Constitution or laws of the United States because of the other person's race, color, religion, ancestry, national origin, gender, or sexual orientation, under any of the following circumstances, which shall be charged in the accusatory pleading:

(a) The crime against the person of another either includes the present ability to commit a violent injury or causes actual physical injury.

(b) The crime against property causes damage in excess of one thousand dollars ($1,000).

(c) The person charged with a crime under this section has been convicted previously of a violation of subdivision (a) or (b) of Section 422.6, or has been convicted previously of a conspiracy to commit a crime described in subdivision (a) or (b) of Section 422.6.

SEC. 2.5. Section 422.7 of the Penal Code is amended to read:

422.7. Except in the case of a person punished under Section 422.6, any crime which is not made punishable by imprisonment in the state prison shall be punishable by imprisonment in the state prison or in a county jail not to exceed one year, by a fine not to exceed ten thousand dollars ($10,000), or by both that imprisonment and fine, if the crime is committed against the person or property of another for the purpose of intimidating or interfering with that other person's free exercise or enjoyment of any right secured to him or her by the constitution or laws of this state or by the Constitution or laws of the United States and because of the other person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation, under any of the following circumstances, which shall be charged in the accusatory pleading:

(a) The crime against the person of another either includes the present ability to commit a violent injury or causes actual physical injury.

(b) The crime against property causes damage in excess of five hundred dollars ($500).

(c) The person charged with a crime under this section has been convicted previously of a violation of subdivision (a) or (b) of Section 422.6, or has been convicted previously of a conspiracy to commit a crime described in subdivision (a) or (b) of Section 422.6.

SEC. 3. Section 1170.75 of the Penal Code is amended to read:

1170.75. Except in a case in which the person has been convicted of an offense subject to Section 1170.8, the fact that a person committed a felony or attempted to commit a felony because of the victim's race, color, religion, nationality, country of origin, ancestry, gender, or sexual orientation shall be considered a circumstance in aggravation of the crime in imposing a term under subdivision (b) of Section 1170.

SEC. 3.5. Section 1170.75 of the Penal Code is amended to read:

1170.75. Except where the court imposes additional punishment under Section 422.75 or in a case in which the person has been convicted of an offense subject to Section 1170.8, the fact that a person committed a felony or attempted to commit a felony because of the victim's race, color, religion, nationality, country of origin, ancestry, disability, gender, or sexual orientation, shall be considered a circumstance in aggravation of the crime in imposing a term under subdivision (b) of Section 1170.

SEC. 4. Section 1.5 of this bill incorporates amendments to Section 422.6 of the Penal Code proposed by both this bill and SB 98. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 422.6 of the Penal Code, and (3) this bill is enacted after SB 98, in which case Section 1 of this bill shall not become operative.

SEC. 5. Section 2.5 of this bill incorporates amendments to Section 422.7 of the Penal Code proposed by both this bill and SB 98. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 422.7 of the Penal Code, and (3) this bill is enacted after SB 98, in which case Section 2 of this bill shall not become operative.

SEC. 6. Section 3.5 of this bill incorporates amendments to Section 1170.75 of the Penal Code proposed by both this bill and SB 98. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 1170.75 of the Penal Code, and (3) this bill is enacted after SB 98, in which case Section 3 of this bill shall not become operative.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1185

An act to amend Sections 13962, 13965, 13968, 13969.1, and 13969.2 of the Government Code, relating to victims of crime.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 13962 of the Government Code is amended to read:

13962. (a) The staff of the board shall appoint a clerk to review all applications for assistance in order to ensure that they are complete. If an application is not complete, it shall be returned to the victim with a brief statement of the additional information required. The victim, within 30 days of receipt thereof, may either supply the additional information or appeal the action to the board which shall review the application to determine whether or not it is complete.

(b) The board shall approve or deny applications accepted in accordance with subdivision (a) within an average of 90 calendar days. Each individual claim shall be approved or denied within 180 calendar days. These specified time periods shall operate from the date the claim is accepted by the board or local contract agency, to the date of approval or denial of the claim. Any verification of the claim which is deemed necessary shall be performed during these specified time periods. The verification process shall include sending supplemental forms to all hospitals, physicians, law enforcement officials, and other interested parties involved, verifying the treatment of the victim, circumstances of the crime, amounts paid or received by or for the victim, and other pertinent information as may be deemed necessary by the board. Verification forms shall be provided by the board and shall be returned to the board within 10 business days. All of this information shall be provided at no cost to the applicant, the board, or local victim centers. Verification forms shall require sufficient information to clearly identify the victim. The board shall include on the verification forms a statement certifying that a signed authorization by the victim is retained in the victim's file and that this certification constitutes actual authorization for the release of information, notwithstanding any other provision of law. Each request from the board to a physician for a copy or summary of medical records shall include a copy of the signed authorization for the release of information. The board shall include on the verification forms reference to this section with respect to the prompt return of the verification forms. The board, thereupon, shall consider the application at a hearing at a time and place of its choosing. The board shall notify all interested persons not less than five days prior to the date of the hearing.

(c) The victim shall cooperate with the staff of the board or the

local victim center in the verification of the information contained in the application. Failure to cooperate shall be reported to the board, which, in its discretion, may reject the application on this ground alone.

(d) Hearings shall be held in various locations with the frequency necessary to provide for the speedy adjudication of the applications. If the applicant's presence is required at the hearing, the board shall consider convenience to the applicant in scheduling the locations. If necessary, the board shall delegate the hearing of applications to hearing examiners.

(e) The board may contract with local victim centers to provide verification of claims processed by the centers pursuant to conditions stated in subdivision (b).

SEC. 2. Section 13965 of the Government Code is amended to read:

13965. (a) If the application for assistance is approved, the board shall determine what type of state assistance will best aid the victim. The board may take any or all of the following actions:

(1) Authorize a direct cash payment to a provider of psychological or psychiatric treatment or mental health counseling services, including peer counseling services provided by a rape crisis center as defined by Section 13837 of the Penal Code or to the victim, equal to the pecuniary loss attributable to medical or medical-related expenses, including counseling, directly resulting from the injury. Reimbursement on the initial claim for any psychological, psychiatric, or mental health counseling services, including peer counseling services provided by a rape crisis center, shall, if the victim's application has been approved, be paid by the board within 90 days of the date of receipt of the claim for payment, with subsequent payments to be made to the provider within one month of the receipt of a claim for payment. However, the board may not authorize without good cause a direct cash payment to a licensed health care provider or rape crisis center over the objection of the victim.

When a public agency, including a court or district attorney or a police, county child protective services, or other state or local governmental agency, refers a victim of crime to a private nonprofit agency for treatment for that victim, the private nonprofit agency shall be reimbursed for those services at the level of the normal and customary fee charged by the private nonprofit agency to clients with adequate means of payment for its services, except that this reimbursement shall not exceed the maximum reimbursement rates set by the board and may be made only to the extent that the victim otherwise qualifies for services under the victims of crime program and that other reimbursement or direct subsidies are not available to serve the victim.

Payments authorized pursuant to this paragraph for peer counseling services provided by a rape counseling center shall not exceed fifteen dollars ($15) for each hour of services provided. Those

services shall be limited to individual, in-person counseling on a face-to-face basis for a period not to exceed 10 weeks plus one series of facilitated support group counseling sessions.

(2) Authorize a cash payment to the victim equal to the pecuniary loss resulting from loss of wages or support directly resulting from the injury. If the board determines, after review of an application for assistance, including the evaluation of a qualified provider, that pecuniary loss for which payment may be made under this paragraph is expected to continue more than six months after the date of approval of the victim's application for assistance, disbursement shall commence and continue on a monthly basis for the period of time pecuniary loss is expected to continue.

(3) Authorize cash payments to or on behalf of the victim for job retraining or similar employment-oriented rehabilitative services.

(4) Obtain an independent examination and report from any provider of psychological or psychiatric treatment or mental health counseling services, if it believes there is a reasonable basis for requesting an additional evaluation. In cases where the crime involves sexual assault, the provider shall have expertise in the needs of sexual assault victims. When a reevaluation is obtained, payments shall not be discontinued prior to completion of the reevaluation.

(5) The total award to or on behalf of the victim shall not exceed twenty-three thousand dollars ($23,000), and may be increased only in accordance with this section.

(b) Assistance granted pursuant to this article shall not disqualify an otherwise eligible victim from participation in any other public assistance program.

(c) Cash payments made pursuant to this article may be on a one-time or periodic basis. If periodic, the board may increase, reduce, or terminate the amount of assistance according to the victim's need, subject to the maximum limits provided in this section.

(d) The board shall pay attorney's fees representing the reasonable value of legal services rendered to the applicant, in an amount equal to 10 percent of the amount of the award, or five hundred dollars ($500), whichever is less. An attorney receiving fees from another source may waive the right to receive fees under this section. Payments under this section shall be in addition to any amount authorized or ordered under subdivision (d) of Section 13969.1.

(e) No attorney shall charge, demand, receive, or collect any amount for services rendered in connection with any proceedings under this article except as awarded under this article.

(f) The maximum cash payments authorized in subdivision (a) shall be increased to forty-six thousand dollars ($46,000) if federal funds for those increases are available, and may be further increased pursuant to subdivision (i).

(g) Notwithstanding subdivisions (a) and (f), a victim injured between January 1, 1985, and December 31, 1985, shall be entitled to receive a maximum cash payment of forty-six thousand dollars

($46,000) if federal funds for these increases are available, but only for costs in excess of limitations provided for in subdivision (a) which are attributable to medical or medical-related expenses, except for psychological or psychiatric treatment, or mental health counseling services.

(h) Notwithstanding any conflicting provision of this chapter, the board may make additional payments for purposes described in paragraph (1) of subdivision (a) to any victim who filed an application with the board on or after December 1, 1982, who was a victim of a crime involving sexual assault, and who is a minor at the time the additional payments pursuant to this subdivision are made. The payments authorized by this subdivision shall not in the aggregate of all payments made by the board to the victim of the crime exceed twenty-three thousand dollars ($23,000), unless federal funds are available, in which case the aggregate maximum award may be increased to forty-six thousand dollars ($46,000).

(i) Notwithstanding any conflicting provision of this chapter, the board may, at its discretion, make additional cash payments not to exceed ten thousand dollars ($10,000) over any maximum payment amount specified in this section, for pecuniary losses as defined in subdivision (d) of Section 13960 or for services provided pursuant to this section, subject to any restrictions that apply under subdivision (a), to or on behalf of a victim of a crime involving sexual assault which occurred after January 1, 1980, who has made more than two appearances in open court, or hearings, in criminal actions involving the defendant, over an extended period of time.

(j) Reimbursement for any medical or medical-related services shall, if the victim's application has been approved, be paid by the board within an average of 90 days from receipt of the claim for payment. Payments to a medical or mental health provider under this subdivision or paragraph (1) of subdivision (a) shall not be discontinued prior to completion of any reevaluation. Whether or not a reevaluation is obtained, if the board determines that payments to a provider shall be discontinued, the board shall notify the provider of their discontinuance within 30 days of its determination.

(k) The board may establish maximum rates and service limitations for reimbursement of medical and medical-related expenses, including counseling expenses, incurred by a victim for which restitution is requested pursuant to this section. For mental health and counseling services provided to victims of crime, rates shall not exceed the statewide average.

To assure service limitations which are uniform and appropriate to the levels of mental health treatment required by the victim, the board may review all claims for these services as necessary to ensure their medical necessity. The board may further require additional documentation, information, or medical review of cases of continuing treatment which are projected to exceed five thousand dollars ($5,000) to determine the need to continue treatment in excess of that amount. The board may accept or reject claims for the

amount in excess of five thousand dollars ($5,000) by applying the same standards applicable to processing the initial claim or may approve a continuing treatment regimen for a specific interval or subject to periodic review as appropriate. All information requested of the treating therapist shall be provided at no cost to the applicant, the board, or to local victim centers, pursuant to subdivision (b) of Section 13962. Requests for additional information shall be made in a timely manner so as not to interfere with necessary treatment.

(*l*) The authority provided by this section shall not be construed to in any way diminish, enhance, or otherwise affect any authority which the board may have under current law except as explicitly provided in this section.

SEC. 2.5. Section 13965 of the Government Code is amended to read:

13965. (a) If the application for assistance is approved, the board shall determine what type of state assistance will best aid the victim. The board may take any or all of the following actions:

(1) Authorize a direct cash payment to a provider of psychological or psychiatric treatment or mental health counseling services, including peer counseling services provided by a rape crisis center as defined by Section 13837 of the Penal Code or to the victim, equal to the pecuniary loss attributable to medical or medical-related expenses, including counseling, directly resulting from the injury. Reimbursement on the initial claim for any psychological, psychiatric, or mental health counseling services, including peer counseling services provided by a rape crisis center, shall, if the victim's application has been approved, be paid by the board within 90 days of the date of receipt of the claim for payment, with subsequent payments to be made to the provider within one month of the receipt of a claim for payment. However, the board may not authorize without good cause a direct cash payment to a licensed health care provider or rape crisis center over the objection of the victim.

When a public agency, including a court or district attorney or a police, county child protective services, or other state or local governmental agency, refers a victim of crime to a private nonprofit agency for treatment for that victim, the private nonprofit agency shall be reimbursed for those services at the level of the normal and customary fee charged by the private nonprofit agency to clients with adequate means of payment for its services, except that this reimbursement shall not exceed the maximum reimbursement rates set by the board and may be made only to the extent that the victim otherwise qualifies for services under the victims of crime program and that other reimbursement or direct subsidies are not available to serve the victim.

Payments authorized pursuant to this paragraph for peer counseling services provided by a rape counseling center shall not exceed fifteen dollars ($15) for each hour of services provided. Those services shall be limited to individual, in-person counseling on a

face-to-face basis for a period not to exceed 10 weeks plus one series of facilitated support group counseling sessions.

(2) Authorize a cash payment to the victim equal to the pecuniary loss resulting from loss of wages or support directly resulting from the injury. If the board determines, after review of an application for assistance, including the evaluation of a qualified provider, that pecuniary loss for which payment may be made under this paragraph is expected to continue more than six months after the date of approval of the victim's application for assistance, disbursement shall commence and continue on a monthly basis for the period of time pecuniary loss is expected to continue.

(3) Authorize cash payments to or on behalf of the victim for job retraining or similar employment-oriented rehabilitative services.

(4) Obtain an independent examination and report from any provider of psychological or psychiatric treatment or mental health counseling services, if it believes there is a reasonable basis for requesting an additional evaluation. In cases where the crime involves sexual assault, the provider shall have expertise in the needs of sexual assault victims. When a reevaluation is obtained, payments shall not be discontinued prior to completion of the reevaluation.

(5) The total award to or on behalf of the victim shall not exceed twenty-three thousand dollars ($23,000), and may be increased only in accordance with this section.

(6) Payment shall be authorized for victims as defined in Section 13960.3 to the extent that the victim otherwise qualifies under the victims of crime program and to the extent that the county does not provide funding for the services to which the victim would otherwise be entitled under this chapter.

(b) Assistance granted pursuant to this article shall not disqualify an otherwise eligible victim from participation in any other public assistance program.

(c) Cash payments made pursuant to this article may be on a one-time or periodic basis. If periodic, the board may increase, reduce, or terminate the amount of assistance according to the victim's need, subject to the maximum limits provided in this section.

(d) The board shall pay attorney's fees representing the reasonable value of legal services rendered to the applicant, in an amount equal to 10 percent of the amount of the award, or five hundred dollars ($500), whichever is less.

An attorney receiving fees from another source may waive the right to receive fees under this section. Payments under this section shall be in addition to any amount authorized or ordered under subdivision (d) of Section 13969.1.

(e) No attorney shall charge, demand, receive, or collect any amount for services rendered in connection with any proceedings under this article except as awarded under this article.

(f) The maximum cash payments authorized in subdivision (a) shall be increased to forty-six thousand dollars ($46,000) if federal funds for those increases are available, and may be further increased

pursuant to subdivision (i).

(g) Notwithstanding subdivisions (a) and (f), a victim injured between January 1, 1985, and December 31, 1985, shall be entitled to receive a maximum cash payment of forty-six thousand dollars ($46,000) if federal funds for these increases are available, but only for costs in excess of limitations provided for in subdivision (a) which are attributable to medical or medical-related expenses, except for psychological or psychiatric treatment, or mental health counseling services.

(h) Notwithstanding any conflicting provision of this chapter, the board may make additional payments for purposes described in paragraph (1) of subdivision (a) to any victim who filed an application with the board on or after December 1, 1982, who was a victim of a crime involving sexual assault, and who is a minor at the time the additional payments pursuant to this subdivision are made. The payments authorized by this subdivision shall not in the aggregate of all payments made by the board to the victim of the crime exceed twenty-three thousand dollars ($23,000), unless federal funds are available, in which case the aggregate maximum award may be increased to forty-six thousand dollars ($46,000).

(i) Notwithstanding any conflicting provision of this chapter, the board may, at its discretion, make additional cash payments not to exceed ten thousand dollars ($10,000) over any maximum payment amount specified in this section, for pecuniary losses as defined in subdivision (d) of Section 13960 or for services provided pursuant to this section, subject to any restrictions that apply under subdivision (a), to or on behalf of a victim of a crime involving sexual assault which occurred after January 1, 1980, who has made more than two appearances in open court, or hearings, in criminal actions involving the defendant, over an extended period of time.

(j) Reimbursement for any medical or medical-related services shall, if the victim's application has been approved, be paid by the board within an average of 90 days from receipt of the claim for payment. Payments to a medical or mental health provider under this subdivision or paragraph (1) of subdivision (a) shall not be discontinued prior to completion of any reevaluation. Whether or not a reevaluation is obtained, if the board determines that payments to a provider shall be discontinued, the board shall notify the provider of their discontinuance within 30 days of its determination.

(k) The board may establish maximum rates and service limitations for reimbursement of medical and medical-related expenses, including counseling expenses, incurred by a victim for which restitution is requested pursuant to this section. For mental health and counseling services provided to victims of crime, rates shall not exceed the statewide average.

To assure service limitations which are uniform and appropriate to the levels of mental health treatment required by the victim, the board may review all claims for these services as necessary to ensure their medical necessity. The board may further require additional

documentation, information, or medical review of cases of continuing treatment which are projected to exceed five thousand dollars ($5,000) to determine the need to continue treatment in excess of that amount. The board may accept or reject claims for the amount in excess of five thousand dollars ($5,000) by applying the same standards applicable to processing the initial claim or may approve a continuing treatment regimen for a specific interval or subject to periodic review as appropriate. All information requested of the treating therapist shall be provided at no cost to the applicant, the board, or to local victim centers, pursuant to subdivision (b) of Section 13962. Requests for additional information shall be made in a timely manner so as not to interfere with necessary treatment.

(*l*) The authority provided by this section shall not be construed to in any way diminish, enhance, or otherwise affect any authority which the board may have under current law except as explicitly provided in this section.

SEC. 3. Section 13968 of the Government Code is amended to read:

13968. (a) The board is hereby authorized to make all needful rules and regulations for the purposes of carrying into effect the provisions of this article. All rules and regulations adopted pursuant to this subdivision shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3.

(b) It shall be the duty of every hospital licensed under the laws of this state to display prominently in its emergency room posters giving notification of the existence and general provisions of this chapter, and the existence and locations of local victim centers. The board, in cooperation with local victim centers, shall set standards for the location of such a display and shall provide posters, application forms, and general information regarding the provisions of this chapter to each hospital and physician licensed to practice in the State of California.

(c) It shall be the duty of every local law enforcement agency to inform victims of crimes of the provisions of this chapter, of the existence of local victim centers, and in counties where no local victim center exists, to provide application forms to victims who desire to seek assistance pursuant to this article. The board shall provide application forms and all other documents which local law enforcement agencies and victim centers may require to comply with this section. The board, in cooperation with local victim centers shall set standards to be followed by local law enforcement agencies for this purpose and may require them to file with the board a description of the procedures adopted by each agency to comply.

(d) Notwithstanding any other provision of law, every law enforcement agency in the state shall provide to the board or to the designated local victim centers, upon request, a complete copy of the report regarding the incident and any supplemental reports involving the crime, public offense, or incident giving rise to a claim, for the specific purpose of the submission of a claim or the

determination of eligibility to submit a claim filed pursuant to this article.

(e) The law enforcement agency supplying the information may, at its discretion, withhold the names of witnesses or informants from the board, if the release of such names would be detrimental to the parties or to an investigation currently in progress.

(f) Notwithstanding any other provision of law, every state agency, department, division, board, or commission, upon receipt of a copy of a release signed in accordance with the Information Practices Act of 1977 by the applicant or other authorized representative, shall provide to the board or local victim center the information necessary to complete the verification of an application filed pursuant to this article.

SEC. 3.5. Section 13968 of the Government Code is amended to read:

13968. (a) The board is hereby authorized to make all needful rules and regulations for the purposes of carrying into effect this article. All rules and regulations adopted pursuant to this subdivision shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3.

(b) It shall be the duty of every hospital licensed under the laws of this state to display prominently in its emergency room posters giving notification of the existence and general provisions of this chapter, and the existence and locations of local victim centers. The board, in cooperation with local victim centers, shall set standards for the location of such a display and shall provide posters, application forms, and general information regarding the provisions of this chapter to each hospital and physician licensed to practice in the State of California.

(c) It shall be the duty of every local law enforcement agency to inform victims of crimes of the provisions of this chapter, of the existence of local victim centers, and in counties where no local victim center exists, to provide application forms to victims who desire to seek assistance pursuant to this article. The board shall provide application forms and all other documents which local law enforcement agencies and victim centers may require to comply with this section. The board, in cooperation with local victim centers shall set standards to be followed by local law enforcement agencies for this purpose and may require them to file with the board a description of the procedures adopted by each agency to comply.

(d) Notwithstanding Section 827 of the Welfare and Institutions Code or any other provision of law, every law enforcement and social service agency in the state shall provide to the board or to the designated local victim centers, upon request, a copy of a petition filed in a juvenile court proceeding, reports of the probation officer, any other document made available to the probation officer or to the judge, referee, or other hearing officer, a complete copy of the report regarding the incident and any supplemental reports involving the crime, public offense, or incident giving rise to a claim, for the

specific purpose of the submission of a claim or the determination of eligibility to submit a claim filed pursuant to this article. The board or designated local victim centers shall refuse to allow inspection of a document which personally identifies a minor by anyone other than the minor who is so identified, his or her custodial parent or guardian, the attorneys for those parties, and such other persons as may be designated by court order of the judge of the juvenile court. Any information received pursuant to this section shall be received in confidence for the limited purpose for which it was provided and shall not be further disseminated. A violation of this subdivision is a misdemeanor punishable by a fine not to exceed five hundred dollars ($500).

(e) The law enforcement agency supplying the information may, at its discretion, withhold the names of witnesses or informants from the board, if the release of such names would be detrimental to the parties or to an investigation currently in progress.

(f) Notwithstanding any other provision of law, every state agency, department, division, board, or commission, upon receipt of a copy of a release signed in accordance with the Information Practices Act of 1977 by the applicant or other authorized representative, shall provide to the board or local victim center the information necessary to complete the verification of an application filed pursuant to this article.

SEC. 4. Section 13969.1 of the Government Code is amended to read:

13969.1. (a) The decisions of the board shall be in writing. Copies of the decisions shall be delivered to the applicant or to his or her representative personally or sent to them by mail.

(b) The board itself may order a reconsideration of all or part of the application for assistance on its own motion or on written request of the applicant or his or her representative. The board may not grant more than one such request on any application for assistance. The board shall not consider any such request filed with the board more than 30 days after the personal delivery or 60 days after the mailing of the original decision.

(c) Judicial review of a final decision made pursuant to this article may be had by filing a petition for a writ of mandate in accordance with the provisions of the Code of Civil Procedure. The right to petition shall not be affected by the failure to seek reconsideration before the board. The petition shall be filed as follows:

(1) Where no request for reconsideration is made, within 30 days of personal delivery or within 60 days of the mailing of the board's decision on the application for assistance.

(2) Where a timely request for reconsideration is filed and rejected by the board, within 30 days of personal delivery or within 60 days of the mailing of the notice of rejection.

(3) Where a timely request for reconsideration is filed and granted by the board, or reconsideration is ordered by the board, within 30 days of personal delivery or within 60 days of the mailing

of the final decision on the reconsidered application.

(d) (1) In an action resulting in the issuance of a writ of mandate pursuant to this section the court may order the board to pay to the applicant's attorney reasonable attorney's fees or one thousand dollars ($1,000), whichever is less. If action is taken by the board in favor of the applicant in response to the filing of the petition, but prior to a judicial determination, the board shall pay the applicant's costs of filing the petition.

(2) In case of appeal by the board of a decision on the petition for writ of mandate that results in a decision in favor of the applicant, the court may order the board to pay to the applicant's attorney reasonable attorney fees.

(3) Nothing in this section shall be construed to prohibit or limit an award of attorney's fees pursuant to Section 1021.5 of the Code of Civil Procedure.

SEC. 5. Section 13969.2 of the Government Code is amended to read:

13969.2. (a) If the board does not meet the 90-day average standard prescribed in subdivision (b) of Section 13962, the board shall, thereafter, report to the Legislature, on a quarterly basis, its progress and its current average time of processing a claim.

(b) If the board fails to approve or deny an individual claim within 180 days of the date it is accepted pursuant to subdivision (b) of Section 13962, the board shall advise the applicant and his or her representative, in writing, of the reason for the failure to approve or deny the claim.

SEC. 6. Section 2.5 of this bill incorporates amendments to Section 13965 of the Government Code proposed by both this bill and AB 121. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 13965 of the Government Code, and (3) this bill is enacted after AB 121, in which case Section 2 of this bill shall not become operative.

SEC. 7. Section 3.5 of this bill incorporates amendments to Section 13968 of the Government Code proposed by both this bill and SB 377. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 13965 of the Government Code, and (3) this bill is enacted after SB 377, in which case Section 3 of this bill shall not become operative.

CHAPTER 1186

An act to add Section 8627.5 to the Government Code, relating to emergencies.

[Approved by Governor October 14, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 8627.5 is added to the Government Code, to read:

8627.5. (a) The Governor may make, amend, or rescind orders and regulations during a state of emergency that temporarily suspend any state, county, city, or special district statute, ordinance, regulation, or rule imposing nonsafety related restrictions on the delivery of food products, pharmaceuticals, and other emergency necessities distributed through retail or institutional channels, including, but not limited to, hospitals, jails, restaurants, and schools. The Governor shall cause widespread publicity and notice to be given to all of these orders and regulations, or amendments and rescissions thereof.

(b) The orders and regulations shall be in writing and take effect immediately on issuance. The temporary suspension of any statute, ordinance, regulation, or rule shall remain in effect until the order or regulation is rescinded by the Governor, the Governor proclaims the termination of the state of emergency, or for a period of 60 days, whichever occurs first.

SEC. 2. The Legislature hereby finds and declares that maintaining the delivery of food, pharmaceuticals, or other emergency necessities distributed through retail or institutional channels, in light of disruptions caused by previous earthquakes and other disasters, is a paramount priority and should be considered an essential public service, especially after an earthquake, and therefore, a matter of statewide concern.

CHAPTER 1187

An act to amend Section 8286 of, and to add Chapter 2.5 (commencing with Section 8499) to Part 6 of, the Education Code, relating to child care.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. The Legislature finds and declares all of the

following:

(a) The availability of affordable, quality child care is vital to the future economic viability of the State of California and the well-being of its families.

(b) The number of children living in families where both parents work outside the home, or living in families with a single parent who works outside the home, has increased dramatically over the last decade.

(c) The availability of affordable, quality child care is critical to the self-sufficiency and independence of millions of California families, including the growing number of mothers with young children who must work outside the home because of economic necessity.

(d) High quality child care and development programs, including, but not limited to, those administered by the State Department of Education, can strengthen our society by providing young children with the foundation on which to learn the basic skills necessary to become productive workers.

(e) The lack of available, affordable, quality child care services results in many preschool and schoolage children being left without adequate supervision for significant parts of the day.

(f) It is in the best interest of California and its families to foster a coordinated, comprehensive child care system which maximizes parental responsibility and parental choice for children from birth to 14 years of age, from families of all income levels, all ethnic groups, and including those children with special needs.

(g) Child care needs statewide are diverse and complex; no single approach fits all communities. Existing resources are also diverse and vary in their availability from community to community. The State of California's effort to meet child care needs must recognize community differences, allow for a pluralistic system, encourage local innovation and initiative, and provide encouragement and assistance to parents of preschool children to afford them the opportunity of caring for their children at home.

(h) Planning for child care services should be accomplished by a partnership of all groups of persons concerned with providing safe, affordable, high-quality child care services to California families. It is, therefore, the intent of the Legislature that communities develop local planning councils to plan for child care and development, to coordinate child care services in their communities, and to determine local priorities for new state and local funding.

(i) It is also the intent of the Legislature that local child care planning councils formed under this chapter determine local priorities for the use of the federal Child Care and Development Block Grant.

SEC. 2. Section 8286 of the Education Code is amended to read:

8286. The Governor shall appoint an advisory committee composed of one representative from the State Board of Education, one representative from the State Social Services Advisory Board,

one representative of private education, one representative of child welfare, one representative of private health care, two representatives of proprietary child care agencies, one representative of a community action agency qualified under Title II of the Economic Opportunity Act of 1969, two representatives of family day care homes, five parents of children participating in child care programs of whom at least three shall be parents of children participating in publicly subsidized child development programs, appointed from names selected by a democratic process to assure representation of the parents of children being served, four persons representing professional or civic groups or public or nonprofit private agencies, organizations or groups concerned with child development, one person who administers a public school child care program established pursuant to Article 22 (commencing with Section 8460), one person who administers a county office of education schoolage child care program established pursuant to Article 22 (commencing with Section 8460), and one teacher currently serving in a public school children's center.

The advisory committee shall also include one representative from the State Department of Education appointed by the Superintendent of Public Instruction, and one representative each from the Employment Development Department, the State Department of Social Services, the State Department of Health Services, and the State Department of Developmental Services, appointed by the respective director of each department.

The advisory committee shall assist the State Department of Education in developing a state plan for child development programs pursuant to this chapter.

The advisory committee shall continually evaluate the effectiveness of those programs and shall report thereon at each regular session of the Legislature.

The advisory committee shall coordinate the drafting of guidelines for local planning councils pursuant to Chapter 2.5 (commencing with Section 8499) of Part 6. The advisory committee shall request state and local agencies to submit suggested guidelines. The final guidelines shall be drafted and adopted by the committee, in consultation with local child care agencies, local planning councils, the Secretary of Child Development and Education, the State Department of Education, and the State Department of Social Services. The guidelines shall include, but not be limited to, provisions for assessing child care supply, demand, cost, and facility needs, in terms of age, family income level, special needs, and multilingual and multicultural backgrounds. Guidelines developed for programs administered by the State Department of Education shall be concurred in by the department.

SEC. 3. Chapter 2.5 (commencing with Section 8499) is added to Part 6 of the Education Code, to read:

CHAPTER 2.5. PARTNERSHIP FOR CHILD CARE

8499. For purposes of this chapter, the following definitions shall apply:

(a) "Local planning council" means a local child care and development planning council.

(b) "Committee" means the Child Development Program Advisory Committee as described in subdivision (a) of Section 8499.4.

(c) "Child care" means all child care and development services, including private for-profit, nonprofit, and public programs, for all children, including children with special needs and those from multilingual and multicultural backgrounds.

(d) "Child care and development block grant" or "block grant" means the block grant contained in the federal Child Care and Development Block Grant Act of 1990, as established by the federal Omnibus Budget Reconciliation Act of 1990, Public Law 101-508.

8499.3. Funds from the child care and development block grant allocated for local expansion of child care services shall be distributed by the State Department of Education as follows:

(a) A minimum amount of funds, established by the State Department of Education, shall be distributed within each county.

(b) Any amount of funds distributed within each county that is above the minimum amount established by the State Department of Education pursuant to subdivision (a) shall be determined by the procedure described in Section 8289.

(c) Once the size of the amount of funds to be distributed within each county has been determined, funds shall be distributed by the State Department of Education according to the priorities listed by each local planning council unless they do not meet the requirements of the federal regulations and state guidelines for these guidelines developed by the State Department of Education.

(d) If a county has not submitted a plan, the Superintendent of Public Instruction shall determine distribution of funds within the county.

8499.5. In order to initiate local child care planning, and to set priorities for use of the child care and development block grant, the county board of supervisors and the county superintendent of schools are requested to accomplish the following:

(a) Notify the State Department of Education for the child care and development block grant of their decision to participate in local efforts to plan for child care and to set priorities for new funds. If either the board of supervisors or the superintendent of schools decides not to participate in these efforts, the other may act alone.

(b) Appoint a countywide child care and development planning council. Membership on the council should include, but need not be limited to, representatives from the following:

(1) County and city government officials or elected officials knowledgeable about local planning issues, child care, recreation,

and social services for children and families.

(2) County office of education.

(3) School districts and community colleges within the county. Representatives should be knowledgeable about child care and development programs.

(4) Local state-funded child care resource and referral agency.

(5) Local government child care coordinator.

(6) Child care and Head Start providers and child development experts.

(7) Parents who use child care services.

(8) Employers, labor organizations, and community organizations knowledgeable about child care, including child care provided by sectarian organizations, in the community.

(9) A representative of the Native Tribal Councils, if there is a Native Tribal Council within the county.

(c) If a county already has a child care or children's services council, such as those established pursuant to the Presley-Brown Interagency Children's Services Act (Chapter 12.8 (commencing with Section 18986) of Part 6 of Division 9 of the Welfare and Institutions Code), the board or boards may designate this council as the child care and development planning council, as long as the council has or can achieve the representation set forth in this section.

(d) Prior to selecting the members of the local planning council, the board or boards should publicize its or their intention to select the members and should invite local organizations to submit nominations.

(e) Every effort shall be made to ensure that the ethnic and racial composition of the local planning council is reflective of the ethnic and racial distribution of the persons and families in the community.

(f) In a county where a city selection committee is created pursuant to Section 50270 of the Government Code, the board or boards shall request that committee to select the city representatives to serve on the local planning council.

8499.6. Local planning councils are encouraged to do all of the following:

(a) Elect a chair and appoint staff as needed.

(b) Develop local priorities for the distribution of federal and state funds as they become available. Local priorities for expansion of subsidized child care and development services under the child care and development block grant should list the types of services most needed by families eligible under the block grant, the ages of the children needing care, and the specific geographic areas within the county where care is needed. These priorities should be documented by data on supply, demand, cost and market rates for child care in the community. In addition, local planning councils may list their priorities for state and local activities to improve the quality of child care. In developing priorities, the local planning council should consult and coordinate with other county interagency children's services councils. The local planning council should

publicize proposed priorities and gather public input before submitting the priorities to the State Department of Education.

(c) Review and update local priorities every two years, if the county intends to continue to receive funding based on local priorities.

(d) Prepare a comprehensive, countywide community child care plan. Local planning councils are encouraged to make every effort to include provisions in the plan that comply with all of the following:

(1) It describes and analyzes the present and future child care needs within that county for a five-year period, based on demographic information and supply and demand data in accordance with guidelines adopted by the advisory committee pursuant to Section 8286.

(2) It contains a plan to meet the child care needs of its county and to develop a comprehensive county child care system by mobilizing public and private resources using, to the extent feasible, expertise and existing data developed by local state-funded child care resource and referral programs and other state and local agencies and complementing existing resources.

(3) It provides for a biennial update of the child care plan consistent with a schedule established by the council and provides for a review by the local jurisdiction at least once biennially of the planning option chosen by the jurisdiction.

(4) It fosters a child care system which maximizes parental responsibility and parental choice.

(5) It considers financing alternatives to implement the action plan.

(6) It identifies priorities for expansion of child care services taking into consideration the age, special needs, family income level, the needs of adolescent parents and children of migrant workers during seasonal work periods, multilingual backgrounds, and multicultural backgrounds of the children requiring child care services.

(7) It identifies the needs and lists priorities for expansion of subsidized child care programs administered by the State Department of Education and State Department of Social Services, and by the federal Head Start Program (42 U.S.C. Sec. 9831 et seq.).

(8) It describes the strategies and mechanisms for assisting and upgrading the quality of child care.

(9) It explains how county and city land use and transportation policies can be used to promote and foster the availability of child care services.

(10) It describes the roles and responsibilities of all relevant public and private agencies in meeting local child care needs.

(11) It identifies current and prospective local funding sources and potential contributions to a community child care fund.

(12) It identifies the roles of the existing local state-funded child care resource and referral program in the implementation of the plan.

(13) It describes the relationships of the local programs pursuant to the federal Head Start Program (42 U.S.C. Sec. 9831 et seq.), the GAIN program established pursuant to Article 3.2 (commencing with Section 11320) of Part 3 of Division 9 of the Welfare and Institutions Code, the JOBS program established pursuant to Title II (commencing with Section 201) of the Family Support Act of 1988 (P.L. 100-485), and the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.) to the plan, and, where applicable, it describes the coordination with the California Child Care Initiative Project established by Section 8215 of the Education Code.

(14) It is consistent with all guidelines adopted by the advisory committee pursuant to Section 8286.

8499.8. (a) If a local jurisdiction already has a preexisting countywide, community child care plan that meets the intent of this chapter, it may use that plan. The plan may include subplans developed by local jurisdictions within the county.

(b) The local planning council shall consult and coordinate with any county interagency children's services coordination councils authorized pursuant to the Presley-Brown Interagency Children's Services Act (Chapter 12.8 (commencing with Section 18986) of Part 6 of Division 9 of the Welfare and Institutions Code).

(c) Before adopting a community child care plan, copies of the proposed plan shall be made available to the public and at least one public hearing on the plan shall be held.

(d) The local planning council should consult with the local state-funded child care resource and referral program regarding the program's assistance in formulating the priorities for block grant funding and preparing the community child care plan. To the extent that funds from the block grant may be allocated for coordination activities performed by resource and referral agencies, compensation may be provided to the program for additional activities beyond those already funded by the state.

CHAPTER 1188

An act to amend Section 66202 of, to add Section 66202.5 to, to add an article heading to Chapter 9.2 (commencing with Section 66720) of, and to add Article 2 (commencing with Section 66730) to Chapter 9.2 of Part 40 of, the Education Code, relating to education.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) A viable and effective student transfer system is one of the

fundamental underpinnings of public postsecondary education in California. It is a community college's primary role to prepare students for upper division access to the University of California and the California State University.

(b) The transfer system must be implemented in such a way as to ensure the successful transfer of individual students to the University of California or the California State University, including the campus and major of their choice, if academic performance is satisfactory.

(c) The transfer function plays a key role in meeting educational equity since the pool of most recent high school graduates who attend the University of California and the California State University as freshmen admittants is not reflective of the racial and ethnic diversity of the state's population. An effective transfer agreement program will assist progress toward diversifying the race and ethnicity of baccalaureate degree holders.

(d) Community college students must have access to a viable and efficient transfer agreement program to the California State University and the University of California for upper division work toward a baccalaureate degree. A viable transfer agreement program for community college students gives otherwise excluded students a way into the university system.

(e) A transfer agreement program must be afforded to community college students who were eligible to attend the university upon graduation from high school and to those who had no initial eligibility but demonstrate successful completion of coursework and the will to succeed.

(f) A transfer agreement program for community college students has the greatest chance for success if the public universities attain and maintain a 60/40 ratio of upper division to lower division undergraduate students.

(g) All students who meet either the University of California or California State University eligibility requirements at both the freshman and the upper division level, and who apply as required, should be offered the opportunity to attend a University of California or California State University campus within the system to which the student applied.

The current practice of finding a place for every eligible student who applies is accepted as appropriate state policy. Students should be offered alternatives for upper division admission to the University of California and the California State University, depending upon which segment received the student's application, as follows:

(1) Students eligible for admission to the University of California or California State University upon high school graduation may apply to a campus of their choice. If the campus has more eligible applicants than available spaces at the freshman level, the campus should offer the applicant the option of pursuing lower division education at one or more specified community colleges. Individuals accepting this offer shall receive, upon completion of specified academic work, high priority for admission at the upper division

level at the campus that made the offer.

(2) Regardless of eligibility for admission to the University of California or California State University upon high school graduation, students should be provided the opportunity to attend a community college that offers a transfer agreement program in cooperation with a University of California or California State University campus. This option shall enable students to receive high priority consideration, enter into a contract, or attain equivalent special treatment when applying for university admission at the upper division level. Transfer agreement programs shall also provide high priority access to majors of choice. It is recognized that access to majors of choice will, in most cases, require completion of specialized coursework and attainment of a specified grade point average.

(h) Each community college district should ensure that its colleges have full development of a viable and efficient transfer system which includes transfer agreement programs, centers, and internal coordination of all counseling and student service efforts aimed at ensuring adequate student information, student assistance, and monitoring of progress toward each student's goal.

(i) No provision of the act which enacted this section during the 1991–92 Regular Session of the Legislature shall apply to the University of California except to the extent that the Regents of the University of California, by resolution, make that provision applicable.

SEC. 2. Section 66202 of the Education Code is amended to read:

66202. (a) It is the intent of the Legislature that the following categories be followed, insofar as practicable in the following numerical order, for the purpose of enrollment planning and admission priority practice at the undergraduate resident student level for the California State University and the University of California:

(1) Continuing undergraduate students in good standing.

(2) California Community College transfer students who have successfully concluded a course of study in an approved transfer agreement program.

(3) Other California Community College students who have met all of the requirements for transfer.

As stated in legislative findings, the transfer function plays a key role in meeting the state's goals of educational equity. Therefore, the Board of Regents of the University of California and the Board of Trustees of the California State University shall declare as policy for this paragraph and paragraph (2) of this subdivision that students who are eligible to transfer and who are from historically underrepresented groups or economically disadvantaged families shall be given preference, to the fullest extent possible under state and federal law, statutes, and regulations, in transfer admissions decisions, and shall design policies in conformity with state and federal statutes and regulations intended to facilitate their success in

achieving transfer.

(4) Other qualified transfer students.

(5) California residents entering at the freshman or sophomore levels.

(b) It is further the intent of the Legislature that within each of the preceding enrollment categories, the following groups of applicants receive priority consideration in admissions practice in the following order:

(1) Residents of California who are recently released veterans of the armed forces of the United States.

(2) Transfers from California public community colleges.

(3) Applicants who have been previously enrolled at the campus to which they are applying, provided they left this institution in good standing.

(4) Applicants who have a degree or credential objective that is not generally offered at other public institutions of higher learning within California.

(5) Applicants for whom the distance involved in attending another institution would create financial or other hardships.

(c) It is further the intent of the Legislature that those veterans referred to in paragraph (1) of subdivision (b) who were enrolled in good standing at a campus of the University of California or at one of the California State Universities prior to military service receive priority over other veterans recently released from military service.

SEC. 3. Section 66202.5 is added to the Education Code, to read:

66202.5. The State of California reaffirms its historic commitment to ensure adequate resources to support enrollment growth, within the systemwide academic and individual campus plans to accommodate eligible California freshmen applicants and eligible California Community College transfer students, as specified in Sections 66202 and 66730.

The University of California and the California State University are expected to plan that adequate spaces are available to accommodate all California resident students who are eligible and likely to apply to attend an appropriate place within the system. The State of California likewise reaffirms its historic commitment to ensure that resources are provided to make this expansion possible, and shall commit resources to ensure that students from enrollment categories designated in subdivision (a) of Section 66202 are accommodated in a place within the system. In addition, transfer students from paragraphs (2) and (3) of subdivision (a) of Section 66202, shall be accommodated at the campus or major of choice specified in the redirection agreement, the approved transfer program or written agreements, unless these majors have been declared "impacted." For impacted majors, students shall be given the opportunity to have access to the major when spaces become available, and new freshmen shall be admitted to the major in a controlled manner to ensure that all transfer students described in paragraph (2) of subdivision (a) of Section 66202 have an equitable chance of being

accommodated. It is the intent of the Legislature to fund programs designed to accomplish the purposes of this subdivision through appropriations made in the Budget Act to the public institutions of higher education, and the annual Budget shall contain appropriations necessary to accommodate all students from all of the categories designated in subdivision (a) of Section 66202.

The segments may, in implementing these enrollment plans and admissions practice priorities, consider the overall needs of students in maintaining a balanced program and a quality curriculum, and are expected to consider the state's goals of educational equity and racial and ethnic diversity of students and faculty in the planning and management of their admissions practices. It is further the intent of the Legislature that campus enrollment planning processes provide for the equitable treatment of the following: (1) all eligible entering freshmen; (2) continuing students in good standing; and (3) eligible community college transfer students with regard to accommodation in majors.

This part shall supersede any other law which conflicts with this part.

SEC. 4. An article heading is added to Chapter 9.2 (commencing with Section 66720) of Part 40 of the Education Code, to read:

Article 1. Transfer System

SEC. 5. Article 2 (commencing with Section 66730) is added to Chapter 9.2 of Part 40 of the Education Code, to read:

Article 2. Transfer Functions

66730. (a) The Regents of the University of California, the Trustees of the California State University, and the Board of Governors of the California Community Colleges shall have as a fundamental policy the maintenance of a healthy and expanded student transfer system. Both the University of California and the California State University shall have as a basic enrollment policy the maintenance of upper division enrollment, which are students who have attained upper division status, at 60 percent of total undergraduate enrollment. This goal shall be met through programs aimed at increasing the numbers of qualified transfer students from the community colleges without denying eligible freshmen applicants.

(1) The California State University shall maintain its upper division enrollment, which are students who have attained upper division status, at approximately 60 percent of total undergraduate enrollment. Its planning documents shall reflect this policy.

(2) Commencing in the 1991–92 academic year, the University of California shall progressively increase the percentage that upper division enrollment systemwide is of total undergraduate enrollment through the 1995 –96 academic year until that percentage reaches

approximately 60 percent. This shall be accomplished through increases in the numbers of community college transfer students admitted to upper division standing at the university without denying eligible freshmen applicants. Planning documents shall reflect these expected increases.

(b) The governing board of each segment shall ensure that individual university and college campus enrollment plans include adequate upper division places for community college transfer students in all undergraduate colleges or schools, and that each undergraduate college or school on each campus participates in developing articulation and transfer agreement programs with community colleges. The governing boards shall meet this goal within their respective general statewide planning framework used to attain and maintain the state's goal of a 60/40 ratio of upper to lower division students, their segmental enrollment planning processes, and campus planning regarding program balance, educational quality, and other relevant goals.

66731. Student matriculation from community colleges through the University of California and the California State University shall be recognized by the Governor, Legislature, and the governing boards of each of California's public postsecondary education segments as a central institutional priority of all segments of higher education.

66732. The governing boards of each segment shall declare as policy that the student transfer agreement program shall constitute a significant role in achieving the goal of student diversity within their segments, and in ensuring that all students, particularly those currently underrepresented in higher education, have access to a university education. The governing boards of each segment shall design, adopt, and implement policies intended to facilitate successful movement of students from community colleges through the University of California and the California State University.

66734. The Board of Governors of the California Community Colleges shall have the authority and responsibility to guarantee that all community college students have access to courses that meet the lower division baccalaureate degree requirements of the California public universities. The Board of Governors of the California Community Colleges, with the cooperation of the Regents of the University of California and the Trustees of the California State University, shall ensure that all students are clearly and fully informed as to which community college courses and units are transferable and meet the general education and lower division major requirements at the California State University and the University of California.

66736. Each community college district governing board shall ensure that its college or colleges maintain student transfer counseling centers or other counseling and student services designed and implemented to affirmatively seek out, counsel, advise, and monitor the progress of potential and identified community college

transfer students.

All policies and procedures shall give preference and emphasis toward enhancing the transfer of students from economically disadvantaged families and students from traditionally underrepresented minorities, to the fullest extent possible under state and federal statutes and regulations.

66737. The Regents of the University of California, the Trustees of the California State University, and the Board of Governors of the California Community Colleges are expected to develop new programs of outreach, recruitment, and cooperation between and among the three segments of public higher education to facilitate the successful transfer of students between the community colleges and the universities. Every community college student who successfully completes the transfer agreement programs, as defined in Section 66738, in a community college shall have an appropriate place in an upper division university program.

66738. (a) The governing board of each public postsecondary education segment shall be accountable for the development and implementation of formal systemwide articulation agreements and transfer agreement programs, including those for general education or a transfer core curriculum, and other appropriate procedures to support and enhance the transfer function.

(b) The elements in a comprehensive transfer system shall include, but not be limited to, the following:

(1) Enrollment and resource planning; intersegmental faculty curricular efforts.

(2) Coordinated counseling.

(3) Financial aid and transfer services.

(4) Transfer articulation agreements and programs.

(5) Specific efforts to improve diversity.

(6) Early outreach activities.

(7) Expansion of current practices relating to concurrent enrollment of community college students in appropriate university courses.

(8) Centers.

(c) The governing board of each segment shall expand existing practices related to concurrent enrollment, in which community college students are provided the opportunity to take courses at University of California and California State University campuses, as space is available; and to expand opportunities for potential transfer students to participate in activities that familiarize them with the university campus.

66740. Each department, school, and major in the University of California and California State University shall develop, in conjunction with community college faculty in appropriate and associated departments, discipline-specific articulation agreements and transfer program agreements for those majors that have lower division prerequisites. Faculty from the community colleges and university campuses shall participate in discipline-specific

curriculum development to coordinate course content and expected levels of student competency.

Where specific majors are impacted or over-subscribed, the prescribed course of study and minimum grade point average required for consideration for upper division admission to all of these majors shall be made readily available to community college counselors, faculty, and students on an annual basis. In cases where the prescribed course of study is altered by the university department, notice of the modification shall be communicated to appropriate community college faculty and counselors at least one year prior to the deadline for application to that major and implementation by the department responsible for teaching that major.

Community college districts, in conjunction with the California State University and the University of California, shall develop discipline-based agreements with as many campuses of the two university segments as feasible, and no fewer than three University of California campuses and five California State University campuses. The development of these agreements shall be the mutual responsibility of all three segments, and no one segment should bear the organizational or financial responsibility for accomplishing these goals.

The Chancellor of the California Community Colleges and the President of the University of California shall begin the process of setting priorities to determine which community colleges will receive first attention for the development of agreements. Criteria for priority determination shall include, but not be limited to, the percentage and number of students from economically disadvantaged families and underrepresented racial and ethnic minorities, and community colleges which traditionally have not transferred many students to the University of California. The priority list shall be completed by March 1, 1992. These considerations shall not be used in any way to displace current agreements between any community college and the University of California or the California State University.

The Chancellor of the California Community Colleges and the Chancellor of the California State University system shall begin the process of setting priorities to determine which community colleges will receive first attention for the development of agreements. Criteria for priority determination shall include, but not be limited to, the percentage and number of students from economically disadvantaged families and underrepresented racial and ethnic minorities, and community colleges which traditionally have not transferred many students to California State Universities. The priority list shall be completed by March 1, 1992. These considerations shall not be used in any way to displace current agreements between any community college and the University of California or the California State University.

66741. As a result of systemwide and interinstitutional

agreements, each community college student shall be assured of the opportunity to enter into a transfer agreement program enabling a student to receive high priority consideration, attain equivalent special treatment, or enter into a contract when applying for university admission at the advanced standing level. It is recognized that eligibility for transfer agreement programs will require completion of certain requirements as defined in interinstitutional agreements. It is also recognized that access to majors of choice will, in most cases, require completion of additional requirements, such as specialized coursework and attainment of a specialized grade point average.

Transfer agreement programs also shall carry high priority access to majors of choice. The University of California and the California State University shall require that continuing undergraduate students and community college transfer students are assessed against a common set of criteria for upper division standing to a specific major. However, generally speaking, access to these programs shall require completion of specialized coursework and attainment of a grade point average above the minimums defined in general admission requirements, such as those used in supplementary admission criteria for impacted or over-subscribed programs.

Alternatively, students may also, by meeting the University of California or California State University requirements for admission at the advanced standing level, simply wish to apply as required. All students meeting these admission requirements shall be guaranteed a place somewhere in the University of California or California State University system, as appropriate.

66742. The governing boards of the three public segments of higher education shall present annual statistical reports on transfer patterns via the California Postsecondary Education Commission to the Governor and Legislature. The reports shall include recent statistics on student enrollments by campus, segment, gender, ethnicity, and the ratio of upper division to lower division, including information on both freshman and transfer student access to the system. These reports should include, to the extent that data are available or become available, data on application, admission and enrollment information for all students by sex, ethnicity, and campus. For transfer students, this data shall indicate the segment of origin for all students. In addition, data shall be separately identified for transfer students from California Community Colleges, and shall identify the subset of applications which are completed together with admission, enrollment, and declared major information for that group. The reports shall describe the number of transfer agreements, if any, whose terms and conditions were not satisfied by either the California State University or the University of California, the number of California Community College transfer students denied either admission to the student's first choice of a particular campus of the California State University or the University of California or

the student's first choice of a major field of study, and, among those students, the number of students who, upon denial of either of the student's first choices, immediately enrolled at another campus of the California State University or the University of California. The reports shall also include information by sex and ethnicity on retention and degree completion for transfer students as well as for native students, and the number and percentage of baccalaureate degree recipients who transferred from a community college.

66743. The California Postsecondary Education Commission is requested to convene an intersegmental advisory committee on transfer access and performance for the purposes of presenting biennial reports to the Governor and the Legislature on the status of transfer policies and programs, the diligence of each segment's board, and the effectiveness of these programs in meeting the state's goals for transfer. The report shall include information about all of the following:

(a) The effectiveness of transfer agreement programs and activities in enhancing the transfer function overall as well as the extent to which transfer program activities have been directed at students who have been historically underrepresented in the University of California and the California State University.

(b) The status of the implementation of the transfer core curriculum as described in Section 66720 for each community college, including information about the extent to which sophomore level courses needed for transfer are available on all community college campuses.

(c) Progress that has been made in achieving articulation agreements in those specific majors that have lower division prerequisites, and the dissemination of this information. The committee shall also explore methods to systematically measure the extent to which the state's goals of freshmen and transfer student access are being met, including analyses of the number of fully eligible freshmen or transfer students who are denied access to the system, and the reasons for that denial. The committee shall also address ways in which sharing of information about transfer students among the segments can be improved, including early identification of potential transfer students for intensive recruitment purposes.

No later than April 1994, the California Postsecondary Education Commission shall report to the Governor and the Legislature on the overall success of this chapter in expediting the goals of transfer, including recommendations about a common definition of transfer rates, including the identification of campuses and positions of employment that prevent progress toward a more effective transfer program, with specific recommendations about resource, program, or other incentives to encourage an effective intersegmental transfer program. The Governor and the Legislature shall monitor the success of the University of California and the California State University in achieving their targeted enrollment levels and in implementing these reforms. A substantial failure to implement

reform, to achieve the 60/40 ratio by the designated dates, or to significantly improve the transfer rate of historically underrepresented groups, shall precipitate legislative hearings to determine the reasons why any one or all of these goals have not been met.

66744. No provision of this article shall apply to the University of California except to the extent that the Regents of the University of California, by resolution, make that provision applicable.

SEC. 6. The Board of Regents of the University of California, the Board of Trustees of the California State University, and the Board of Governors of the California Community Colleges, are requested to each prepare a plan for the implementation of Article 2 (commencing with Section 66730) of Chapter 9.2 of Part 40 of the Education Code. These plans shall be submitted to the policy and fiscal committees of the Legislature by January 15, 1992.

It is the intent of the Legislature that each plan shall include a timetable for implementation of this act, including identification of additional resources that may be required. The Legislature acknowledges that some sections of Article 2 (commencing with Section 66730) of Chapter 9.2 of Part 40 of the Education Code, such as Section 66740, will require a phase in process and the full implementation of those sections will depend on the availability of resources.

The institutions are requested further to identify those additional resources required for faculty time associated with course articulation, and those that are associated with counseling, student advising and outreach to community college students. Any request for augmentation of a four-year segment's resources should further include an estimate of the resources currently being used for community college purposes as well as for analogous activities with high schools and high school students.

SEC. 7. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1189

An act to amend Section 3502 of, and to add Section 5358 to, the Elections Code, relating to elections.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 3502 of the Elections Code is amended to read:

3502. Prior to the circulation of any initiative or referendum petition for signatures, a draft of the proposed measure shall be submitted to the Attorney General with a written request that a title and summary of the chief purpose and points of the proposed measure be prepared. The title and summary shall not exceed a total of 100 words.

The persons presenting the request shall be known as the "proponents."

The Attorney General shall preserve the written request until after the next general election.

The written request shall be accompanied by a written statement, signed by each proponent under penalty of perjury, that no appropriation for a particular project contained within the text of the proposed measure, if any, was included in exchange for a campaign contribution or a pledge for a campaign contribution for purposes of qualifying the proposed measure for the ballot.

SEC. 1.5. Section 3502 of the Elections Code is amended to read:

3502. (a) Prior to the circulation of any initiative or referendum petition for signatures, a draft of the proposed measure shall be submitted to the Attorney General with a written request that a title and summary of the chief purpose and points of the proposed measure be prepared. The title and summary shall not exceed a total of 100 words.

(b) At the time the request is submitted, the proponents shall also submit a statement containing a comprehensive list of all those individuals and entities that have contributed five thousand dollars ($5,000) or more, to qualify the initiative measure. If the source of the funds is a committee as defined in Section 82013 of the Government Code, the proponents shall disclose on the statement whether, to their knowledge, any other committee or individual has contributed five thousand dollars ($5,000) or more to that committee which was in any manner earmarked or otherwise directed to be used for the qualification of the measure. This statement shall be signed by the proponents under penalty of perjury.

(c) The persons presenting the request shall be known as the "proponents."

(d) The Attorney General shall preserve the written request until

after the next general election.

(e) The written request shall be accompanied by a written statement, signed by each proponent under penalty of perjury, that no appropriation for a particular project contained within the text of the proposed measure, if any, was included in exchange for a campaign contribution or a pledge for a campaign contribution for purposes of qualifying the proposed measure for the ballot.

SEC. 2. Section 5358 is added to the Elections Code, to read:

5358. (a) No person shall include an appropriation for a particular project within the text of an initiative petition in exchange for a campaign contribution or a pledge for a campaign contribution for purposes of qualifying the petition for the ballot.

(b) As used in this section and in Section 3502, "project" means the financing, acquisition, or improvement of land, the construction or reconstruction of structures, improvements, parking structures, and related facilities, including the repair, replacement, maintenance, and operation of the project, and any equipment necessary or convenient for the project.

(c) Upon a determination by any court that this section has been violated and in the event that the initiative petition has been adopted by the voters, the appropriation for the particular project is void and any moneys appropriated for the particular project shall revert to the fund from which the moneys were appropriated.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 4. Section 1.5 of this bill incorporates amendments to Section 3502 of the Elections Code proposed by both this bill and SB 661. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 3502 of the Elections Code, and (3) this bill is enacted after SB 661, in which case Section 1 of this bill shall not become operative.

CHAPTER 1190

An act to amend Sections 8206, 8207, 8261, and 8289, of, and to add Sections 8206.1, 8206.2, 8206.3, 8206.5, 8206.6, 8206.7, and 8206.8 to, and to add Article 15.5 (commencing with Section 8350) to Chapter 2 of Part 6 of, the Education Code, to add Section 1596.796 to the Health and Safety Code, and to amend Section 11324 of, and to add Section 11057.5 to, the Welfare and Institutions Code, relating to child care, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 8206 of the Education Code is amended to read:

8206. The State Department of Education is hereby designated as the single state agency responsible for the promotion, development, and provision of care of children in the absence of their parents during the workday or while engaged in other activities which require assistance of a third party or parties. The department shall administer the federal Child Care and Development Block Grant Act of 1990, established by the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508).

SEC. 2. Section 8206.1 is added to the Education Code, to read:

8206.1. The Superintendent of Public Instruction shall collaborate with the Secretary of Child Development and Education and the Secretary of Health and Welfare, with the advice and assistance of the Child Development Programs Advisory Committee, in the development of the state plan required pursuant to Section 652E(a)(2) of the federal Child Care and Development Block Grant Act of 1990, established by the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), prior to submitting or reporting on that plan to the federal Secretary of Health and Human Services. For the purposes of this section, "collaboration" means to cooperate with and to consult with.

SEC. 3. Section 8206.2 is added to the Education Code, to read:

8206.2. The superintendent shall consult with the Commission on Teacher Credentialing, and the office of the Chancellor of the California Community Colleges in development of the state plan, where appropriate.

SEC. 4. Section 8206.3 is added to the Education Code, to read:

8206.3. The department shall coordinate the state plan required by the federal Child Care and Development Block Grant Act of 1990 with the state's Master Plan for Child Care and Development.

SEC. 5. Section 8206.5 is added to the Education Code, to read:

8206.5. To the extent feasible, the State Department of Education

shall award local contracts for direct services pursuant to the federal Child Care and Development Block Grant Act of 1990, established by the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), to applicant agencies meeting locally determined priorities for program expansion.

SEC. 6. Section 8206.6 is added to the Education Code, to read:

8206.6. It is the intent of the Legislature that federal funds received pursuant to the federal Child Care and Development Block Grant Act of 1990, established by the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), shall be allocated according to federal regulations.

SEC. 7. Section 8206.7 is added to the Education Code, to read:

8206.7. In each contract entered into pursuant to Section 8203.5 by the State Department of Education and a contracting agency, not less than 10 percent of the children supported by funds made available pursuant to the federal Child Care and Development Block Grant of 1990, established by the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), shall be children with exceptional needs as defined in subdivision (*l*) of Section 8208. The Superintendent of Public Instruction may waive this requirement if the contractor demonstrates that the demand for this level of service does not exist. Children with exceptional needs shall receive priority for enrollment within the priorities established by the child care and development local planning council.

SEC. 8. Section 8206.8 is added to the Education Code, to read:

8206.8. In order to assist contracting agencies in meeting the requirements of Section 8206.7, the State Department of Education shall, from funds made available to it pursuant to the federal Child Care and Development Block Grant of 1990, established by the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), make funds available for staff development for those contracting agencies, including activities designed to improve services to children with exceptional needs.

SEC. 9. Section 8207 of the Education Code is amended to read:

8207. The Superintendent of Public Instruction may, pursuant to Section 204 of the Intergovernmental Cooperation Act of 1968, request waivers of single state agency requirements as necessary to utilize available federal funds for the purposes of this chapter, except for the purposes of the At Risk Child Care Program set forth in Article 15.5 (commencing with Section 8350). Until a waiver is granted by the federal government, the single state agency authorized by federal law to provide any child care service provided for in this chapter shall have only the functions, duties, and responsibilities conferred by this chapter upon the State Department of Education and the Superintendent of Public Instruction with respect to the child development services as are required by federal law and regulation. In that event, the single state agency shall provide child care and development services under a purchase of service agreement with the Superintendent of Public Instruction

from funds appropriated for the services. The Superintendent of Public Instruction shall provide the necessary documents required by the federal government pursuant to this section to support the state's claim for federal reimbursement and shall certify that the school district, or other organization providing the care, has available the accounting records and other supporting documents to justify the claim for reimbursement and that the records are available for audit by the Controller and by any authorized federal agency.

SEC. 10. Section 8261 of the Education Code is amended to read:

8261. (a) The Superintendent of Public Instruction shall adopt rules and regulations pursuant to this chapter. The rules and regulations shall include, but not be limited to, provisions which do all of the following:

(1) Provide clear guidelines for the selection of agencies when child development contracts are let, including, but not limited to, specification that any agency headquartered in the proposed service area on January 1, 1985, will be given priority for a new contract in that area, unless the State Department of Education makes a written determination that (A) the agency is not able to deliver the level of services specified in the request for proposal, or (B) the department has notified the agency that it is not in compliance with the terms of its contract.

(2) Provide for a contract monitoring system to ensure that agencies expend funds received pursuant to this chapter in accordance with the provisions of their contracts.

(3) Specify adequate standards of agency performance.

(4) Establish reporting requirements for service reports, including provisions for varying the frequency with which these reports are to be submitted on the basis of agency performance.

(5) Specify standards for withholding payments to agencies that fail to submit required fiscal reports.

(6) Set forth standards for state department site visits to contracting agencies, including, but not limited to, specification as to the purpose of the visits, the personnel that will perform these visits, and the frequency of these visits which shall be as frequently as staff and budget resources permit. On an annual basis, beginning September 1985, the department shall report to the Senate Education, Senate Health and Human Services, Assembly Education, and Assembly Human Services Committees on the number of visits conducted during the previous fiscal year pursuant to this paragraph.

(b) The superintendent shall consult with the State Department of Social Services with respect to rules and regulations adopted relative to the disbursal of federal funds under Title XX of the federal Social Security Act.

(c) For purposes of expediting the implementation of state or federal legislation to expand child care services, the superintendent may waive (1) the regulations regarding the point qualifications for, and the process and scoring of, interviews of contract applicants pursuant to Section 18002 of Title 5 of the California Code of

Regulations, or (2) the time limitations for scheduling and notification of appeal hearings and their results pursuant to Section 18003 of Title 5 of the California Code of Regulations. The superintendent shall ensure that the appeal hearings provided for in Section 18003 of Title 5 of the California Code of Regulations are conducted in a timely manner.

SEC. 11. Section 8289 of the Education Code is amended to read:

8289. The State Department of Education shall disburse augmentations to the base allocation for the expansion of child care and development services to promote equal access to child development services across the state.

(a) To develop a formula to promote this equal access, the State Department of Education shall use indirect indicators of need for child care. This data shall be combined on a county-by-county basis. However, the department may divide counties larger than 1,000,000 persons into smaller units for which the data will be combined.

More specific indicators of the need for subsidized day care shall be substituted for or included in the formula as they become available.

These indicators of need for child care shall be combined to determine each county and subcounty unit's relative need for child care services.

(b) The State Department of Education shall determine the total for each county or subcounty unit dollar amount for publicly subsidized child care services.

(c) The comparison of combined need with available public resources as provided for in this section shall guide the State Department of Education in determining the portion of new funds which will be available to applicant agencies from each county or subcounty unit.

The size of those portions for expansion of child development services shall promote equal access to child development services for eligible families across the state by bringing the relative dollar amounts in each county or subcounty unit into closer congruence with the relative need for child care services in each county or subcounty unit.

SEC. 12. Article 15.5 (commencing with Section 8350) is added to Chapter 2 of Part 6 of the Education Code, to read:

Article 15.5. At Risk Child Care Program

8350. (a) Upon the approval of the Superintendent of Public Instruction, the State Department of Social Services, as the designated state agency, shall enter into an interagency agreement with the State Department of Education under which the State Department of Education shall administer this article as established pursuant to the federal child care provisions, set forth in Section 5081 of Chapter 6 of Title V of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508).

(b) Subject to the approval of the designated state agency, the State Department of Education shall adopt rules and regulations necessary for the administration of this article consistent with those federal child care provisions set forth in Section 5081 of Chapter 6 of Title V of the Omnibus Budget Reconciliation Act of 1990.

8351. For the purposes of this article, the following terms shall have the following meanings:

(a) "AFDC" means Aid to Families with Dependent Children.

(b) "Child care provider" means licensed child care facilities, including day care facilities and family day care homes, as well as providers who are exempt from licensure, including care provided by an individual in a family's home or care provided by a relative in the relative's home.

(c) "Designated state agency" means the State Department of Social Services which is the single state agency designated to provide child care services, for purposes of paragraph (3) of subsection (a) of Section 402 of the Social Security Act (42 U.S.C. Sec. 603(a)(3)).

(d) "Eligible family" means a family that has an adjusted monthly income at or below 84 percent of the state median income level adjusted for family size at the time of initial enrollment, who is not a current AFDC recipient, needs child care services in order to work, and would otherwise be at risk of becoming eligible for AFDC if child care subsidies are not provided.

(e) "GED Certificate" means the General Education Development Certificate.

(f) "Program" means the At Risk Child Care Program established pursuant to this article.

(g) "Transitional child care" means transitional child care provided pursuant to the Transitional Child Care Program set forth in Article 8 (commencing with Section 11500) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

8352. (a) For the purposes of this article, and notwithstanding Section 8263, the following priorities for enrollment in the program shall apply:

(1) First priority for enrollment shall be given to eligible families who meet at least one of the following criteria:

(A) Former recipients of transitional child care who have exhausted all eligibility for transitional child care during the 12 months following the date on which that eligibility has been terminated.

(B) Former AFDC recipients who do not qualify for transitional child care for reasons other than failure to pay their family fee or failure to cooperate with the County Family Support Division in establishing child support liability.

(C) Employed emancipated minors who are parents and employed parents under the age of 20 years who are not receiving AFDC and who possess a high school diploma, a GED Certificate, or who are currently participating in an educational activity that would lead to either a high school diploma or GED Certificate.

(2) Second priority shall be given to all other eligible families, with eligible families who have the lowest gross monthly income in relation to family size given enrollment first.

(b) Notwithstanding any other provision of law, priorities shall not be waived by any individual or agency without the prior approval of the designated state agency.

(c) In order to receive funding from the program, each participating eligible family shall contribute some amount to the cost of providing care according to a sliding fee scale formula established by the Superintendent of Public Instruction based upon the family's ability to pay, in accordance with subdivision (e) of Section 8263.

8353. The program shall serve eligible families in a variety of settings, including child day care facilities that are licensed pursuant to Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), and Chapter 3.6 (commencing with Section 1597.30) of Division 2 of the Health and Safety Code, as well as providers who are exempt from licensing pursuant to Section 1596.792 of the Health and Safety Code, including care in an eligible family's home or care in a relative's home.

8354. In order to receive payment for child care service pursuant to the program, a child care provider shall meet the following requirements:

(a) The child care provider shall either hold a valid license pursuant to Chapter 3.4 (commencing with Section 1596.70, Chapter 3.5 (commencing with Section 1596.90, or Chapter 3.6 (commencing with Section 1597.30) of Division 2 of the Health and Safety Code, or, if the child care provider is exempt from licensure, the provider shall provide the following information to the State Department of Education, or the agency contracting with the department pursuant to Section 8203.5, the provider's qualifications and experience, a health statement, whether the provider has ever been convicted of a felony, a signed statement from the parent that the parent has interviewed and approved of the provider, and a valid identification verifying that the provider is at least 18 years of age.

(b) Each child care provider shall allow each parent or legal guardian unlimited access to his or her child or children while the child or children are in the care of the provider.

8355. Except as otherwise provided in this article, reimbursement for the cost of child care development programs may be made as set forth in Article 11 (commencing with Section 8265) or pursuant to the Alternative Payment Program (Article 3 (commencing with Section 8220)) by using various methods of reimbursement for parental costs of child care services, including reimbursement directly to the parent or legal guardian for those services pursuant to Section 8220.

8356. (a) The State Department of Social Services shall reimburse the State Department of Education for the program the lesser of the actual cost of care or the applicable local market rate ceiling, as determined by the State Department of Social Services in

accordance with the regulations issued by the Secretary of Health and Human Services pursuant to Section 5081 of Chapter 6 of Title V of the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508). However, the State Department of Education shall not be precluded by this section from reimbursing providers at the contracted reimbursement rate when it is greater than the local market rate by utilizing other appropriate resources.

(b) The State Department of Education shall use the survey required pursuant to subdivision (b) of Section 11508 of the Welfare and Institutions Code for the purpose of calculating the regional market rate ceiling.

8357. (a) Commencing with the 1993 fiscal year, the State Department of Social Services, as the designated state agency, shall prepare an annual report on the activities carried out with the funds made available to the program pursuant to subsection (n) of Section 603 of Title 42 of the United States Code and submit that report to the Secretary of Health and Human Services. That report shall include the information provided to the department pursuant to subdivision (c), the criteria applied in determining eligibility or priority for receiving services, sliding fee schedules, child care licensing and regulatory requirements, including registration requirements with respect to child care providers, and the enforcement policies and practices that apply to licensed and regulated child care providers, including providers who are required to register.

(b) The State Department of Social Services shall make the report prepared pursuant to subdivision (a) available to the public, and shall provide a copy of each report, on request, to any interested public agency.

(c) The State Department of Education shall report to the State Department of Social Services, as the designated state agency, the statistical data necessary to prepare the report required by subdivision (a).

SEC. 13. Section 1596.796 is added to the Health and Safety Code, to read:

1596.796. Notwithstanding any other provision of law, payments are not required to be made to any person who provides child care services and is exempt from the licensing requirements of this chapter, Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) if that person either is known to have tuberculosis, or to have been convicted of any crime involving violence against, or abuse or neglect of, children.

This section shall not be construed to create an affirmative duty on any individual, government body, or other entity paying for child care to investigate the person to whom payments are being made nor shall it be construed to create any liability for failure to investigate that person.

To the extent that this section is inconsistent with federal law, it shall be inoperative.

SEC. 14. Section 11057.5 is added to the Welfare and Institutions Code, to read:

11057.5. The State Department of Social Services, after consultation with the County Welfare Directors Association, shall determine the times and methods for providing information regarding the At Risk Child Care Program established pursuant to Article 15.5 (commencing with Section 8350) of Chapter 2 of Part 6 of the Education Code to potentially eligible former Transitional Child Care recipients (Article 8 (commencing with Section 11500) of Chapter 2 of Part 3 of the Welfare and Institutions Code), and former aid to families with dependent children recipients.

SEC. 15. Section 11324 of the Welfare and Institutions Code is amended to read:

11324. (a) If the county welfare department or a contractor pays for child care services which are exempt from licensure, all of the following information about the care giver shall be on file with the county welfare department or the contractor and shall be made available to the participant:

(1) The name and address of the care provider.

(2) The address where care is to be provided.

(3) The hours care is to be provided and the charge for this care.

(4) The names, addresses, and telephone numbers of two character references.

(5) A copy of a valid California driver's license or other identification to establish that the care giver is at least 18 years old.

(6) A statement from the caregiver as to his or her health education, experience or other qualification, criminal record, and names and ages of other persons in the home or providing care.

(b) The county welfare department or the contractor shall utilize existing child care licensing or Greater Avenues for Independence program procedures in meeting the requirements of subdivision (a).

(c) To the extent permitted by federal law, the county welfare department shall deny payment, or cause the contractor to deny payment, for child care services which are exempt from licensure if either of the following apply:

(1) The provider has been convicted of a violent felony, as defined in subdivision (c) of Section 667.5 of the Penal Code.

(2) The provider has been convicted of child abuse.

(d) If the child care provider selected by the participant is denied payment, the participant may have good cause for not participating as specified in subdivision (i) of Section 11328.

SEC. 16. Notwithstanding Provision 5 of Item 5180-151-001 of, and Provision 7 of Item 6110-196-001 of, Section 2 of the Budget Act of 1991, or any other provision of law, the State Department of Education, upon execution of the interagency agreement pursuant to Section 8350 in conjunction with the administration of the program, shall not restrict Greater Avenues for Independence (GAIN) participants in the program from being placed in child care spaces that are subsidized by the State Department of Education.

SEC. 17. The sum of thirty-six million five hundred ninety-one thousand eight hundred eighty-four dollars ($36,591,884) is hereby appropriated from the Federal Trust Fund from funds received by the state pursuant to (subsection (n) of Section 603 of Title 42 of the United States Code) to the State Department of Social Services for allocation according to the following schedule:

(a) In augmentation of Item 5180-151-890 of Section 2.00 of the Budget Act of 1991, the sum of thirty-six million four hundred forty-six thousand nine hundred twenty-one dollars ($36,446,921).

(b) In augmentation of Item 5180-001-890 of Section 2.00 of the the Budget Act of 1991, the sum of one hundred forty-four thousand nine hundred sixty-three dollars ($144,963).

SEC. 18. (a) From moneys appropriated to the State Department of Education in Items 6110-001-001 and 6110-196-001 of Section 2.00 of the Budget Act of 1991, the Superintendent of Public Instruction may allocate funds for the purpose of program costs of the At Risk Child Care Program (Article 15.5 (commencing with Section 8350) of Chapter 2 of Part 6 of the Education Code) in an amount matching federal funds expended by the state from moneys made available to it pursuant to the federal child care provisions, set forth in Section 5081 of Chapter 6 of Title V of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508).

(b) Of the funds appropriated in Item 6110-196-001 of Section 2.00 of the Budget Act of 1991, the Superintendent of Public Instruction shall transfer one hundred forty-four thousand nine hundred sixty-three dollars ($144,963) to the State Department of Social Services for administrative costs pursuant to the At Risk Child Care Program, as set forth in Article 15.5 (commencing with Section 8350) of Chapter 2 of Part 6 of the Education Code. It is the intent of the Legislature that subsequent funds shall be provided for this purpose in the annual Budget Act.

(c) It is the intent of the Legislature that an amount matching the federal money allocated to the state pursuant to the federal At Risk Child Care Program (42 U.S.C. Sec. 603(n)) be appropriated to the State Department of Education for purposes of the At Risk Child Care Program (Article 15.5 (commencing with Section 8350) of Chapter 2 of Part 6 of the Education Code) in the annual Budget Act.

SEC. 19. From moneys appropriated to the State Department of Education in Items 6110-196-001 and 6110-196-890 of Section 2.00 of the Budget Act of 1991, the Superintendent of Public Instruction may expend funds and contract for services for child care program improvement activities as prescribed in the state plan implementing the federal Child Care and Development Block Grant Act of 1990, established by the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508).

SEC. 20. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant

to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 21. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

It is essential that a state administrative framework be in place to administer federal block grant funds for child care so that receipt of those funds will not be delayed. It is therefore necessary that this act take effect immediately as an urgency statute.

CHAPTER 1191

An act to amend Sections 54725, 54739, and 54740 of, and to add Sections 54740.5 and 54740.6 to, the Government Code, relating to sanitation.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 54725 of the Government Code is amended to read:

54725. As used in this chapter, local agency means any city, county, municipal utility district, public utility district, sanitary district, county sanitation district, or any municipal or public corporation or district authorized to acquire, construct, own, or operate a sanitation system, a sewer system, or both.

SEC. 2. Section 54739 of the Government Code is amended to read:

54739. (a) Any local agency listed in Section 54725 may require any of the following:

(1) Pretreatment of any industrial waste which the local agency determines is necessary in order to meet standards established by the federal or California state government or other regulatory agencies or which the local agency determines is necessary in order to protect its treatment works or the proper and efficient operation thereof or the health or safety of its employees or the environment.

(2) The prevention of the entry of such industrial waste into the collection system and treatment works.

(3) The payment of excess costs to the system for supplementary

treatment plants, facilities, or operations needed as a result of allowing the entry into the collection system and treatment works of such industrial waste.

(b) The provisions of this section shall be in addition to other requirements provided for in the respective enabling acts of those local agencies incorporated by reference in subdivision (a).

SEC. 3. Section 54740 of the Government Code is amended to read:

54740. (a) Any person who violates any requirement adopted or ordered by a local agency pursuant to paragraph (1) or (2) of subdivision (a) of Section 54739 may be civilly liable in a sum of not to exceed twenty-five thousand dollars ($25,000) a day for each violation.

(b) The local agency may petition the superior court to impose, assess, and recover the sums provided for in subdivision (a). In determining the amount, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the economic benefit derived through any noncompliance, the nature and persistence of the violation, the length of time over which the violation occurs, and corrective action, if any, attempted or taken by the discharger.

(c) Notwithstanding any other provision of law, all civil penalties imposed by the court for a violation of this section shall be distributed to the local agency.

(d) Remedies under this section are in addition to and do not supersede or limit any and all other remedies, civil or criminal, but no liability shall be recoverable under this section for any violation for which liability is recovered under Section 54740.5.

SEC. 4. Section 54740.5 is added to the Government Code, to read:

54740.5. (a) The local agency may issue an administrative complaint to any person who violates any requirement adopted or ordered by a local agency pursuant to paragraph (1) or (2) of subdivision (a) of Section 54739. The administrative complaint shall allege the act or failure to act that constitutes the violation of the local agency's requirements, the provisions of law authorizing civil liability to be imposed, and the proposed civil penalty.

(b) The administrative complaint shall be served by personal delivery or certified mail on the person subject to the local agency's discharge requirements, and shall inform the person served that a hearing shall be conducted within 60 days after the person has been served. The hearing shall be before a hearing officer designated by the governing board of the local agency. The person who has been issued an administrative complaint may waive the right to a hearing, in which case the local agency shall not conduct a hearing. A person dissatisfied with the decision of the hearing office may appeal to the governing board of the local agency within 30 days of notice of the hearing officer's decision.

(c) If after the hearing, or appeal, if any, it is found that the person

has violated reporting or discharge requirements, the hearing officer or board may assess a civil penalty against that person. In determining the amount of the civil penalty, the hearing officer or board may take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the economic benefit derived through any noncompliance, the nature and persistence of the violation, the length of time over which the violation occurs and corrective action, if any, attempted or taken by the discharger.

(d) Civil penalties may be imposed by the local agency as follows:

(1) In an amount which shall not exceed two thousand dollars ($2,000) for each day for failing or refusing to furnish technical or monitoring reports.

(2) In an amount which shall not exceed three thousand dollars ($3,000) for each day for failing or refusing to timely comply with any compliance schedule established by the local agency.

(3) In an amount which shall not exceed five thousand dollars ($5,000) per violation for each day for discharges in violation of any waste discharge limitation, permit condition, or requirement issued, reissued, or adopted by the local agency.

(4) In an amount which does not exceed ten dollars ($10) per gallon for discharges in violation of any suspension, cease and desist order or other orders, or prohibition issued, reissued, or adopted by a local agency.

(5) The amount of any civil penalties imposed under this section which have remained delinquent for a period of 60 days shall constitute a lien against the real property of the discharger from which the discharge originated resulting in the imposition of the civil penalty. The lien provided herein shall have no force and effect until recorded with the county recorder and when recorded shall have the force and effect and priority of a judgment lien and continue for 10 years from the time of recording unless sooner released, and shall be renewable in accordance with the provisions of Sections 683.110 to 683.220, inclusive, of the Code of Civil Procedure.

(e) All moneys collected under this section shall be deposited in a special account of the local agency and shall be made available for the monitoring, treatment, and control of discharges into the local agency's sanitation or sewer system or for other mitigation measures.

(f) Unless appealed, orders setting administrative civil penalties shall become effective and final upon issuance thereof, and payment shall be made within 30 days. Copies of these orders shall be served by personal service or by registered mail upon the party served with the administrative complaint and upon other persons who appeared at the hearing and requested a copy.

(g) The local agency may, at its option, elect to petition the superior court to confirm any order establishing civil penalties and enter judgment in conformity therewith in accordance with the provisions of Sections 1285 to 1287.6, inclusive, of the Code of Civil Procedure.

(h) No penalties shall be recoverable under this section for any violation for which civil liability is recovered under Section 54740.

SEC. 5. Section 54740.6 is added to the Government Code, to read:

54740.6. (a) Any party aggrieved by a final order issued by the governing board of a local agency under Section 54740.5, after granting review of the order of a hearing officer, may obtain review of the order of the board in the superior court by filing in the court a petition for writ of mandate within 30 days following the service of a copy of a decision and order issued by the board. Any party aggrieved by a final order of a hearing officer issued under Section 54740.5, for which the board denies review, may obtain review, of the order of the hearing officer in the superior court by filing in the court a petition for writ of mandate within 30 days following service of a copy of a decision and order denying review by the board.

(b) If no aggrieved party petitions for writ of mandate within the time provided by this section, an order of the board or a hearing officer shall not be subject to review by any court or agency, except that the board may grant review on its own motion of an order issued under Section 54740.5 after the expiration of the time limits set by that section.

(c) The evidence before the court shall consist of the record before the board, including the hearing officer's record, and any other relevant evidence which, in the judgment of the court, should be considered to effectuate and implement policies of this division. In every such case, the court shall exercise its independent judgment on the evidence.

(d) Except as otherwise provided in this section, subdivisions (e) and (f) of Section 1094.5 of the Code of Civil Procedure shall govern proceedings pursuant to this section.

CHAPTER 1192

An act to add Section 33021.1 to, and to add and repeal Section 33377 of, the Health and Safety Code, relating to redevelopment, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 33021.1 is added to the Health and Safety Code, to read:

33021.1. In a city and county, redevelopment includes improving, increasing, or preserving emergency shelters for homeless persons or households. These shelters may be located within or outside of established redevelopment project areas. Notwithstanding any other

provision of law, only redevelopment funds other than those available pursuant to Section 33334.3 may be used to finance these activities.

SEC. 2. Section 33377 is added to the Health and Safety Code, to read:

33377. (a) With respect to the adoption of one or more redevelopment plans by the City of Dunsmuir, the otherwise applicable provisions of Chapter 4 (commencing with Section 33300) shall be modified as follows:

(1) The report required pursuant to Section 33328 shall be prepared and delivered to the Redevelopment Agency of the City of Dunsmuir and each of the taxing agencies within 20 days of the date the redevelopment agency files the information required by Section 33327 with the State Board of Equalization, and the report need only be as complete as the information then available will permit.

(2) The preliminary report required by Section 33344.5 need not be prepared and sent to each affected taxing entity and neither the County of Siskiyou nor any other affected taxing entity may call for the creation of a fiscal review committee pursuant to Section 33353. However, prior to the adoption of an ordinance approving a redevelopment plan pursuant to this section, the Redevelopment Agency of the City of Dunsmuir and the County of Siskiyou shall have approved and executed an agreement pursuant to subdivision (b) of Section 33401 concerning the payment of taxes to the County of Siskiyou.

(3) Section 33347 requiring submission of the redevelopment plan to the planning commission for its report and recommendation shall not be applicable.

(4) The notices provided for in Sections 33349 and 33361 need only be published once at least 10 days prior to the hearing referred to in those sections and need only be mailed by first-class mail.

(5) The report required pursuant to Section 33352 need contain only the information described in subdivisions (a), (b), (c), (d), (e), (j), (*l*), and (m) of that section.

(6) Section 33385 requiring the formation of a project area committee and consultation with residents and community organizations shall not be applicable. However, prior to the adoption of a redevelopment plan pursuant to this section, the City of Dunsmuir shall conduct at least two public meetings on the proposed redevelopment plan for Dunsmuir residents and property owners. The City of Dunsmuir, shall also cause to be organized a citizens' advisory committee comprised of residents and property owners which shall advise the agency on matters which affect the residents of the project area. The citizens' advisory committee shall remain in existence at least three years.

(7) Notwithstanding Section 33365, any ordinance of the City of Dunsmuir adopting a redevelopment plan pursuant to this section may be adopted as an emergency ordinance and shall not be subject

to referendum.

(b) With respect to the adoption of a redevelopment plan by the City of Dunsmuir pursuant to this section which includes an area within the territorial limits of the County of Siskiyou as authorized by the county pursuant to Section 33213, the ordinance of the County of Siskiyou approving the redevelopment plan pursuant to Section 33213 may be adopted as an emergency ordinance and shall not be subject to referendum.

(c) The provisions of the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code, shall not be applicable to the adoption of redevelopment plans by the City of Dunsmuir or the County of Siskiyou pursuant to the provisions of this section; provided, however, that all public and private activities and undertakings thereafter proposed and which are intended to implement those redevelopment plans shall be governed by the provisions of the California Environmental Quality Act.

(d) Notwithstanding Section 33500, no action attacking or otherwise questioning the validity of a redevelopment plan adopted in accordance with the provisions of this section, or any of the findings or determinations of the City of Dunsmuir, the Redevelopment Agency of the City of Dunsmuir, or the County of Siskiyou in connection with the plan, shall be brought prior to the adoption of the redevelopment plan or at any time after the elapse of 30 days from and after the date of adoption of the ordinance adopting the plan.

(e) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1993, deletes or extends that date.

SEC. 3. The Legislature finds and declares that with regard to Section 1, a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances of the City and County of San Francisco. The facts constituting these unique circumstances are as follows:

The Redevelopment Agency of the City and County of San Francisco has determined that an essential step toward the elimination of blight is improving, increasing, or preserving emergency shelters for homeless persons or households. Because of the serious impact of homelessness in San Francisco, it is essential that the law clarify that for the City and County of San Francisco, funds other than those available pursuant to Section 33334.3 of the Health and Safety Code can be used to accomplish these goals. In the City and County of San Francisco, the provision of emergency shelters for homeless persons or households is essential to the elimination of blight within established project areas.

However, nothing in this act or Section 33201.1 of the Health and Safety Code shall be deemed to authorize or limit, or in any way modify any authority of a redevelopment agency, other than a

redevelopment agency in a city and county, to improve, increase, or preserve emergency shelters for homeless persons or households, either inside or outside a project area, from funds available pursuant to Section 33334.3 of the Health and Safety Code or any other source.

SEC. 4. Section 2 of this act, which applies only to the City of Dunsmuir, the Redevelopment Agency of the City of Dunsmuir, and the County of Siskiyou, is necessary to provide immediate aid and assistance as a result of the damage caused by the toxic spill into the Sacramento River on July 14, 1991. The unique problems created by that disaster are such that a general law cannot be made applicable.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The City of Dunsmuir is urgently in need of aid and assistance which can be provided by the Redevelopment Agency of the City of Dunsmuir through the use of its powers under the Community Redevelopment Law. In order for the Redevelopment Agency of the City of Dunsmuir to provide immediate aid and assistance, it is necessary to enable the City of Dunsmuir and its redevelopment agency to quickly establish redevelopment projects and adopt redevelopment plans. In addition, the homeless persons and households of the City and County of San Francisco are in urgent need of emergency shelters. Therefore, this act must take effect immediately.

CHAPTER 1193

An act to amend Section 13003 of, and to add Section 12011 to, the Fish and Game Code, relating to fines and penalties, and making an appropriation therefor.

[Approved by Governor October 14, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 12011 is added to the Fish and Game Code, to read:

12011. (a) In addition to the penalty provided in paragraph (4) of subdivision (b) of Section 12002, any person convicted of a violation of subdivision (a) or (b) of Section 5650 is subject to an additional fine of all of the following:

(1) Not more than ten dollars ($10) for each gallon or pound of material discharged. The amount of the fine shall be reduced for every gallon or pound of the illegally discharged material that is recovered and properly disposed of by the responsible party.

(2) An amount equal to the reasonable costs incurred by the state

or local agency for cleanup and abatement and to fully mitigate all actual damages to fish, plant, bird, or animal life and habitat.

(3) Where the state or local agency is required to undertake cleanup or remedial action because the responsible person refuses or is unable to fully cleanup the discharge, an amount equal to the reasonable costs incurred by the state or local agency, in addition to the amount of funds, if any, expended by the responsible person, in cleaning up the illegally discharged material or abating its effects, or both cleaning up and abating those effects.

(b) Notwithstanding the jurisdiction of the department over illegal discharges and pollution as provided in Section 5650, the fines specified in this section do not apply to discharges in compliance with a national pollution discharge elimination system permit or a state or regional board waste discharge permit.

SEC. 2. Section 13003 of the Fish and Game Code is amended to read:

13003. Unless otherwise provided by law, all fines and forfeitures imposed or collected in any court of this state for violations of any of the provisions of this code or regulation made pursuant thereto, or any other law providing for the protection or preservation of birds, mammals, fish, reptiles, or amphibia, shall be deposited as soon as practicable after the receipt thereof with the county treasurer of the county in which the court is situated. Amounts so deposited shall be paid at least once a month as follows:

(a) One-half to the Treasurer, by warrant of the county auditor drawn upon the requisition of the clerk or judge of the court, for deposit in the Fish and Game Preservation Fund in the State Treasury on order of the Controller. At the time of such transmittal, the county auditor shall forward to the Controller, on such form or forms as the Controller may prescribe, a record of the imposition, collection, and payment of the fines or forfeitures. The department may employ legal counsel and may expend these funds to pay the costs of legal actions brought in the name of the people relating to the enforcement of this code by a district attorney, city attorney, or the department, as appropriate.

(b) One-half to the county in which the offense was committed.

CHAPTER 1194

An act to amend Section 43830 of the Health and Safety Code, relating to air pollution.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 43830 of the Health and Safety Code is amended to read:

43830. (a) The state board shall establish, by regulation, maximum standards for the volatility of gasoline at or below nine pounds per square inch Reid vapor pressure as determined by the American Society for Testing and Materials, Test D 323-58, or by an appropriate test determined by the state board, for gasoline sold in this state.

(b) The state board, in adopting the regulations, shall give full consideration to topography and climatic conditions and may provide that the standards imposed thereby shall apply in those areas which the state board determines necessary in order to carry out the purposes of this division.

(c) Notwithstanding any other law or regulation, until October 1, 1993, any blend of gasoline of at least 10 percent ethyl alcohol shall not result in a violation of any regulation adopted by the state board pursuant to this section unless the volatility of the gasoline used in the blend exceeds the applicable standard of the state board.

(d) For the purposes of this section, "ethyl alcohol" (also known as ethanol) means fuel that meets all of the following requirements:

(1) It is produced from agricultural commodities, renewable resources, or coal.

(2) It is rendered unsuitable for human consumption at the time of its manufacture or immediately thereafter.

(e) For the purposes of determining the percentage of ethyl alcohol contained in gasoline, the volume of alcohol includes the volume of any denaturant approved for that purpose by the United States Bureau of Alcohol, Tobacco and Firearms, provided these denaturants do not exceed 5 percent of the volume of alcohol (including denaturants).

(f) From October 1, 1993, to December 31, 1995, inclusive, any blend of gasoline of at least 10 percent ethyl alcohol shall not result in a violation of the Reid vapor pressure standard adopted by the state board pursuant to this section unless it is determined by the state board on the basis of independently verifiable automobile exhaust and evaporative emission tests performed on a representative fleet of automobiles that the blend would result in a net increase in the ozone forming potential of the total emissions, excluding emissions of oxides of nitrogen, when compared to the

total emissions, excluding emissions of oxides of nitrogen, from the same automobile fleet using gasoline that meets all applicable specifications for Phase I gasoline established by the state board.

(g) On and after January 1, 1996, any blend of gasoline of at least 10 percent ethyl alcohol shall not result in a violation of the Reid vapor pressure standard adopted by the state board pursuant to this section unless it is determined by the state board on the basis of independently verifiable automobile exhaust and evaporative emission tests performed on a representative fleet of automobiles that the blend would result in a net increase in the ozone forming potential of the total emissions, excluding emissions of oxides of nitrogen, when compared to the total emissions, excluding emissions of oxides of nitrogen, from the same automobile fleet using gasoline that meets all applicable specifications for Phase II gasoline established by the state board.

(h) Notwithstanding subdivisions (f) and (g), at any time that the state board adopts, by regulation, standards specifying acceptable levels for emissions of oxides of nitrogen for all reformulated fuels, any blend of gasoline of at least 10 percent ethyl alcohol that exceeds those levels no longer qualifies for an exemption from the Reid vapor pressure standard established by the state board.

CHAPTER 1195

An act to amend Sections 17204, 17206, and 17207 of the Business and Professions Code, and to amend Section 533.5 of the Insurance Code, relating to regulation of commerce.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 17204 of the Business and Professions Code is amended to read:

17204. Actions for injunction pursuant to this chapter may be prosecuted by the Attorney General or any district attorney or any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, or any city attorney of a city having a population in excess of 750,000, and, with the consent of the district attorney, by a city prosecutor in any city or city and county having a full-time city prosecutor in the name of the people of the State of California upon their own complaint or upon the complaint of any board, officer, person, corporation or association or by any person acting for the interests of itself, its members or the general public.

SEC. 2. Section 17206 of the Business and Professions Code is amended to read:

17206. (a) Any person who violates any provision of this chapter shall be liable for a civil penalty not to exceed two thousand five hundred dollars ($2,500) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney or any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, or any city attorney of a city having a population in excess of 750,000, and, with the consent of the district attorney, by a city prosecutor in any city or city and county having a full-time city prosecutor in any court of competent jurisdiction.

(b) If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State General Fund. If brought by a district attorney or county counsel, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered, and one-half to the treasurer of the county in which the judgment was entered.

(c) If the action is brought at the request of a board within the Department of Consumer Affairs or a local consumer affairs agency, the court shall determine the reasonable expenses incurred by the board or local agency in the investigation and prosecution of the action.

Before any penalty collected is paid out pursuant to subdivision (b), the amount of such reasonable expenses incurred by the board shall be paid to the State Treasurer for deposit in the special fund of the board described in Section 205. If the board has no such special fund, the moneys shall be paid to the State Treasurer. The amount of such reasonable expenses incurred by a local consumer affairs agency shall be paid to the general fund of the municipality or county which funds the local agency.

SEC. 3. Section 17207 of the Business and Professions Code is amended to read:

17207. (a) Any person who intentionally violates any injunction prohibiting unfair competition issued pursuant to Section 17203 shall be liable for a civil penalty not to exceed six thousand dollars ($6,000) for each violation. Where the conduct constituting a violation is of a continuing nature, each day of such conduct is a separate and distinct violation. In determining the amount of the civil penalty, the court shall consider all relevant circumstances, including, but not limited to, the extent of the harm caused by the conduct constituting a violation, the nature and persistence of such conduct, the length of time over which the conduct occurred, the assets, liabilities, and net worth of the person, whether corporate or individual, and any corrective action taken by the defendant.

(b) The civil penalty prescribed by this section shall be assessed and recovered in a civil action brought in any county in which the

violation occurs or where the injunction was issued in the name of the people of the State of California by the Attorney General or by any district attorney, any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, or any city attorney in any court of competent jurisdiction within his or her jurisdiction without regard to the county from which the original injunction was issued. An action brought pursuant to this section to recover such civil penalties shall take precedence over all civil matters on the calendar of the court except those matters to which equal precedence on the calendar is granted by law.

(c) If such an action is brought by the Attorney General, one-half of the penalty collected pursuant to this section shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State Treasurer. If brought by a district attorney or county counsel, the entire amount of the penalty collected shall be paid to the treasurer of the county in which the judgment is entered. If brought by a city attorney or city prosecutor, one-half of the penalty shall be paid to the treasurer of the county in which the judgment was entered and one-half to the city.

(d) If the action is brought at the request of a board within the Department of Consumer Affairs or a local consumer affairs agency, the court shall determine the reasonable expenses incurred by the board or local agency in the investigation and prosecution of the action.

Before any penalty collected is paid out pursuant to subdivision (c), the amount of such reasonable expenses incurred by the board shall be paid to the State Treasurer for deposit in the special fund of the board described in Section 205. If the board has no such special fund, the moneys shall be paid to the State Treasurer. The amount of such reasonable expenses incurred by a local consumer affairs agency shall be paid to the general fund of the municipality or county which funds the local agency.

SEC. 4. Section 533.5 of the Insurance Code is amended to read:

533.5. (a) No policy of insurance shall provide, or be construed to provide, any coverage or indemnity for the payment of any fine, penalty, or restitution in any criminal action or proceeding or in any action or proceeding brought pursuant to Chapter 5 (commencing with Section 17200) of Part 2 of, or Chapter 1 (commencing with Section 17500) of Part 3 of, Division 7 of the Business and Professions Code by the Attorney General, any district attorney, any city prosecutor, or any county counsel, notwithstanding whether the exclusion or exception regarding this type of coverage or indemnity is expressly stated in the policy.

(b) No policy of insurance shall provide, or be construed to provide, any duty to defend, as defined in subdivision (c), any claim in any criminal action or proceeding or in any action or proceeding brought pursuant to Chapter 5 (commencing with Section 17200) of Part 2 of, or Chapter 1 (commencing with Section 17500) of Part 3

of, Division 7 of the Business and Professions Code in which the recovery of a fine, penalty, or restitution is sought by the Attorney General, any district attorney, any city prosecutor, or any county counsel, notwithstanding whether the exclusion or exception regarding the duty to defend this type of claim is expressly stated in the policy.

(c) For the purpose of this section, "duty to defend" means the insurer's right or obligation to investigate, contest, defend, control the defense of, compromise, settle, negotiate the compromise or settlement of, or indemnify for the cost of any aspect of defending any claim in any criminal action or proceeding or in any action or proceeding brought pursuant to Chapter 5 (commencing with Section 17200) of Part 2 of, or Chapter 1 (commencing with Section 17500) of Part 3 of, Division 7 of the Business and Professions Code in which the insured expects or contends that (1) the insurer is liable or is potentially liable to make any payment on behalf of the insured or (2) the insurer will provide a defense for a claim even though the insurer is precluded by law from indemnifying that claim.

(d) Any provision in a policy of insurance which is in violation of subdivision (a) or (b) is contrary to public policy and void.

CHAPTER 1196

An act to amend Sections 17204, 17206, and 17207 of the Business and Professions Code, to amend Section 116.231 of, and to add and repeal Section 116.232 of, the Code of Civil Procedure, and to amend Section 11571 of the Health and Safety Code, relating to judicial proceedings.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 17204 of the Business and Professions Code is amended to read:

17204. Actions for injunction pursuant to this chapter may be prosecuted by the Attorney General or any district attorney or by any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, or any city attorney of a city, or city and county, having a population in excess of 750,000, and, with the consent of the district attorney, by a city prosecutor in any city having a full-time city prosecutor or, with the consent of the district attorney, by a city attorney in any city and county in the name of the people of the State of California upon their own complaint or upon the complaint of any board, officer, person, corporation or association or by any person acting for the interests of itself, its members or the general public.

SEC. 2. Section 17206 of the Business and Professions Code is amended to read:

17206. (a) Any person who violates any provision of this chapter shall be liable for a civil penalty not to exceed two thousand five hundred dollars ($2,500) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney or by any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, or any city attorney of a city, or city and county, having a population in excess of 750,000, and, with the consent of the district attorney, by a city prosecutor in any city having a full-time city prosecutor or, with the consent of the district attorney, by a city attorney in any city and county, in any court of competent jurisdiction.

(b) If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State General Fund. If brought by a district attorney or county counsel, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. Except as provided in subdivision (d), if brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered, and one-half to the treasurer of the county in which the judgment was entered.

(c) If the action is brought at the request of a board within the Department of Consumer Affairs or a local consumer affairs agency, the court shall determine the reasonable expenses incurred by the board or local agency in the investigation and prosecution of the action.

Before any penalty collected is paid out pursuant to subdivision (b), the amount of such reasonable expenses incurred by the board shall be paid to the State Treasurer for deposit in the special fund of the board described in Section 205. If the board has no such special fund, the moneys shall be paid to the State Treasurer. The amount of such reasonable expenses incurred by a local consumer affairs agency shall be paid to the general fund of the municipality or county which funds the local agency.

(d) If the action is brought by a city attorney of a city and county, the entire amount of the penalty collected shall be paid to the treasurer of the city and county in which the judgment was entered. However, if the action is brought by a city attorney of a city and county for the purposes of civil enforcement pursuant to Section 17980 of the Health and Safety Code or Article 3 (commencing with Section 11570) of Chapter 10 of Division 10 of the Health and Safety Code, either the penalty collected shall be paid entirely to the treasurer of the city and county in which the judgment was entered, or upon the request of the city attorney, the court may order that up to one-half of the penalty, under court supervision and approval, be paid for the purpose of restoring, maintaining, or enhancing the

premises which were the subject of the action, and that the balance of the penalty be paid to the treasurer of the city and county.

SEC. 3. Section 17207 of the Business and Professions Code is amended to read:

17207. (a) Any person who intentionally violates any injunction prohibiting unfair competition issued pursuant to Section 17203 shall be liable for a civil penalty not to exceed six thousand dollars ($6,000) for each violation. Where the conduct constituting a violation is of a continuing nature, each day of that conduct is a separate and distinct violation. In determining the amount of the civil penalty, the court shall consider all relevant circumstances, including, but not limited to, the extent of the harm caused by the conduct constituting a violation, the nature and persistence of that conduct, the length of time over which the conduct occurred, the assets, liabilities, and net worth of the person, whether corporate or individual, and any corrective action taken by the defendant.

(b) The civil penalty prescribed by this section shall be assessed and recovered in a civil action brought in any county in which the violation occurs or where the injunction was issued in the name of the people of the State of California by the Attorney General or by any district attorney, any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, or any city attorney in any court of competent jurisdiction within his or her jurisdiction without regard to the county from which the original injunction was issued. An action brought pursuant to this section to recover civil penalties shall take precedence over all civil matters on the calendar of the court except those matters to which equal precedence on the calendar is granted by law.

(c) If such an action is brought by the Attorney General, one-half of the penalty collected pursuant to this section shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State Treasurer. If brought by a district attorney or county counsel the entire amount of the penalty collected shall be paid to the treasurer of the county in which the judgment is entered. If brought by a city attorney or city prosecutor, one-half of the penalty shall be paid to the treasurer of the county in which the judgment was entered and one-half to the city, except that if the action was brought by a city attorney of a city and county the entire amount of the penalty collected shall be paid to the treasurer of the city and county in which the judgment is entered.

(d) If the action is brought at the request of a board within the Department of Consumer Affairs or a local consumer affairs agency, the court shall determine the reasonable expenses incurred by the board or local agency in the investigation and prosecution of the action.

Before any penalty collected is paid out pursuant to subdivision (c), the amount of the reasonable expenses incurred by the board shall be paid to the State Treasurer for deposit in the special fund of the board described in Section 205. If the board has no such special

fund, the moneys shall be paid to the State Treasurer. The amount of the reasonable expenses incurred by a local consumer affairs agency shall be paid to the general fund of the municipality or county which funds the local agency.

SEC. 4. Section 116.231 of the Code of Civil Procedure is amended to read:

116.231. (a) Except as provided in Section 116.232, no person may file more than two small claims actions in which the amount demanded exceeds two thousand five hundred dollars ($2,500), anywhere in the state in any calendar year.

(b) If the amount demanded in any small claims action exceeds two thousand five hundred dollars ($2,500), the party making the demand shall file a declaration under penalty of perjury attesting to the fact that not more than two small claims actions in which the amount of the demand exceeded two thousand five hundred dollars ($2,500) have been filed by that party in this state within the calendar year.

SEC. 5. Section 116.232 is added to the Code of Civil Procedure, to read:

116.232. (a) The boards of supervisors of the City and County San Francisco and the County of Stanislaus may elect to participate in pilot projects within their respective jurisdictions under which the limitation on filings provided in Section 116.231 does not apply to the participating city and county or county respectively, or to any city, school district, county office of education, community college district, or local district within those jurisdictions. It is the intent of the Legislature that this additional authority shall constitute a pilot project to determine the efficacy of use by public entities of the small claims courts for actions on claims exceeding two thousand five hundred dollars ($2,500).

(b) If any small claims action is filed by the City and County of San Francisco or the County of Stanislaus, pursuant to subdivision (a), and the defendant informs the court either in advance of the hearing by written notice or at the time of the hearing, that he or she is represented in the action by legal counsel, the action shall be transferred to the municipal court.

(c) This section shall be repealed on January 1, 1995, unless a later enacted statute, which is enacted before that date, deletes or extends that date.

SEC. 6. If the City and County of San Francisco or the County of Stanislaus elects to participate in the pilot project specified in Section 116.232 of the Code of Civil Procedure, the participating city and county or county shall conduct a study in its respective jurisdiction to evaluate the use of small claims filings by public entities pursuant to the additional authority provided by Section 116.232 of the Code of Civil Procedure for claims in excess of two thousand five hundred dollars ($2,500). The study shall determine if this additional authority results in (1) an increase of 20 percent or more in collected revenue and (2) average cost savings of five hundred dollars ($500) or more

per case filed and processed in the small claims court, when compared with the use of the municipal court for these filings.

Each study shall be conducted in consultation with each city, school district, county office of education, community college district, and local district within the participating jurisdiction that utilizes the authority provided by Section 116.232 of the Code of Civil Procedure, small claims advisors, the clerks of the municipal courts, and other appropriate representatives within the participating jurisdiction. The studies shall include all of the following:

(a) The number of small claims actions in excess of two thousand five hundred dollars ($2,500) filed by the participating jurisdiction, and cities, school districts, county offices of education, community college districts, and local districts within those jurisdictions.

(b) The number of defendants in those actions who ask for transfer from small claims court to municipal court pursuant to subdivision (b) of Section 116.232 of the Code of Civil Procedure.

(c) The number of judgment awards in excess of two thousand five hundred dollars ($2,500) resulting from small claims actions specified in subdivision (a).

(d) The difference in cost to the City and County of San Francisco or the County of Stanislaus to file an action in excess of two thousand five hundred dollars ($2,500) in small claims court, based on an assumed average cost of one thousand dollars ($1,000) per case for a municipal court filing and, utilizing that assumption, the amount of money saved by the City and County of San Francisco or the County of Stanislaus by filing these actions in small claims court.

(e) The types of small claims actions filed pursuant to the authority provided in Section 116.232 of the Code of Civil Procedure.

(f) The impact that the number of filings added to the calendar of the small claims court pursuant to the authority provided in Section 116.232 of the Code of Civil Procedure, and whether those filings affect access to the small claims court by private citizens.

(g) The impact that the number of actions filed in small claims court pursuant to the authority provided in Section 116.232 of the Code of Civil Procedure would have upon the municipal court calendar if those actions had been filed in municipal court, and whether those filings affect efficient resolution of claims involving private citizens.

Each city and county or the county participating in the pilot project shall each submit a report on the conclusions of its study to the Judiciary Committee of the Assembly and the Judiciary Committee of the Senate. If the studies determine, in accordance with the methodology specified in this section, that the authority provided in Section 116.232 of the Code of Civil Procedure has resulted in an increase of 20 percent or more in small claims filings by the affected public entities and an average cost savings per case of five hundred dollars ($500) or more, when compared with the use of the municipal court for these filings, the pilot project shall be considered a success.

SEC. 7. Section 11571 of the Health and Safety Code is amended to read:

11571. Whenever there is reason to believe that such a nuisance is kept, maintained or exists in any county, the district attorney of the county, in the name of the people, may, or the city attorney of any incorporated city or of any city and county, or any citizen of the state resident in the county, in his or her own name, may, maintain an action to abate and prevent the nuisance and perpetually to enjoin the person conducting or maintaining it, and the owner, lessee, or agent of the building or place, in or upon which the nuisance exists, from directly or indirectly maintaining or permitting the nuisance.

CHAPTER 1197

An act to amend Section 1684 of, and to add Section 1695.7 to, the Labor Code, relating to farm labor contractors.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 1684 of the Labor Code is amended to read:

1684. The Labor Commissioner shall not issue to any person a license to act as a farm labor contractor, nor shall the Labor Commissioner renew that license, until all of the following conditions are satisfied:

(a) The person has executed a written application therefor in a form prescribed by the Labor Commissioner, subscribed and sworn to by the person, and containing all of the following:

(1) A statement by the person of all facts required by the Labor Commissioner concerning the applicant's character, competency, responsibility, and the manner and method by which the person proposes to conduct operations as a farm labor contractor if the license is issued.

(2) The names and addresses of all persons, except bona fide employees on stated salaries, financially interested, either as partners, associates, or profit sharers, in the proposed operation as a farm labor contractor, together with the amount of their respective interests.

(3) A declaration consenting to the designation by a court of the Labor Commissioner as an agent available to accept service of summons in any action against the licensee if the licensee has left the jurisdiction in which the action is commenced or otherwise has become unavailable to accept service.

(b) The Labor Commissioner, after investigation, is satisfied as to the character, competency, and responsibility of the person.

(c) The person has deposited with the Labor Commissioner a

surety bond in the amount of ten thousand dollars ($10,000). Where the contractor has been the subject of a final judgment in a year in an amount equal to that of the bond required, he or she shall be required to deposit an additional bond within 60 days. The bond shall be payable to the people of the State of California and shall be conditioned that the farm labor contractor will comply with all the terms and provisions of this chapter and will pay all damages occasioned to any person by failure to do so, or by any violation of this chapter, or false statements or misrepresentations made in the procurement of the license. The bond shall also be payable for interest on wages and for any damages arising from violation of orders of the Industrial Welfare Commission, but shall not be payable for penalties on nonpayment or late payment of wages pursuant to Section 203. If a deposit is given instead of a bond, the Labor Commissioner may charge reasonable legal fees against the deposit for handling claims, other than wage claims, filed against the deposit.

(d) The person has paid to the Labor Commissioner a license fee of three hundred fifty dollars ($350) plus a filing fee of ten dollars ($10). However, where a timely application for renewal is filed, the ten-dollar ($10) filing fee is not required. The Labor Commissioner shall deposit twenty-five dollars ($25) of each licensee's annual license fee into a separate account. Funds from this account shall be disbursed by the Labor Commissioner only to persons determined by the Labor Commissioner to have been damaged by any licensee when the damage exceeds the limits of the licensee's bond, or to persons determined by the Labor Commissioner to have been damaged by an unlicensed farm labor contractor. In making these determinations, the Labor Commissioner shall disburse funds from the account to satisfy claims against farm labor contractors or unlicensed farm labor contractors, which shall also include interest on wages and any damages arising from the violation of orders of the Industrial Welfare Commission, but shall not include penalties on nonpayment or late payment of wages pursuant to Section 203. Any disbursal of funds from the account to satisfy a claim against an unlicensed farm labor contractor shall not exceed ten thousand dollars ($10,000). Any disbursed funds subsequently recovered by the Labor Commissioner pursuant to Section 1693, or otherwise, shall be returned to the separate account.

(e) The person in an oral or written examination, or both, demonstrates a degree of knowledge of the laws and administrative regulations concerning farm labor contractors as the Labor Commissioner deems necessary for the safety and protection of farmers, farmworkers, and the public. This examination shall include a demonstration of knowledge of safe work practices related to pesticide use, including all of the following subjects:

(1) Field reentry regulations.
(2) Worker pesticide safety training.
(3) Employer responsibility for safe working conditions.
(4) Symptoms and appropriate treatment of pesticide poisoning.

The Labor Commissioner shall consult with the Director of Pesticide Regulation in preparing this examination and may charge a fee of not more than thirty-five dollars ($35) to cover the cost of administration of the examination.

(f) The Labor Commissioner may renew a license without requiring the applicant for renewal to take the examination specified in subdivision (e) if the Labor Commissioner finds that the applicant meets all of the following criteria:

(1) Has satisfactorily completed the examination during the immediately preceding four years.

(2) Has not during the preceding year been found to be in violation of any pesticide worker safety requirement, including, but not limited to, Division 7 (commencing with Section 12501) of the Food and Agricultural Code.

(3) Has complied with all other requirements of this section.

(g) The person has registered as a farm labor contractor pursuant to the federal Migrant and Seasonal Agricultural Worker Protection Act, when registration is required pursuant to federal law.

SEC. 2. Section 1695.7 is added to the Labor Code, to read:

1695.7. (a) (1) Prior to entering into any contract or agreement to supply agricultural labor or services to an agricultural grower, every person acting in the capacity of a farm labor contractor shall first provide to the grower a copy of his or her current valid state license. A failure to do so is a violation of this chapter.

(2) In the event that the licensee or prospective licensee has fulfilled all the requirements for a license, but the Labor Commissioner has not been able to timely issue or renew a license, the Labor Commissioner shall issue to the person applying for a license, or renewal of a license, a letter of authorization permitting that person to operate or continue to operate as a farm labor contractor. For purposes of this section, a "valid state license" shall include such letter of authorization.

(3) No grower shall enter into a contract or agreement with a person who fails to provide a copy of his or her license, without first making reasonable inquiry, to ensure that the person possesses a valid license.

(4) If a contract or agreement entered into with a farm labor contractor extends beyond the expiration date of his or her license, or beyond the date contained in the letter of authorization to operate, the grower shall make reasonable inquiry of the contractor prior to each time he or she utilizes the licensee's services after that date unless the contractor provides, in lieu thereof, a copy of his or her current valid license or a copy of a letter of authorization issued by the Labor Commissioner.

(b) A failure by the person acting as a farm labor contractor to provide a copy of the license to the agricultural grower shall not constitute a defense against liability under this section for an agricultural grower who subsequently fails to make reasonable inquiry about whether that person has a valid state license.

(c) (1) Any person who acts in the capacity of a farm labor contractor, as defined in this chapter, without first securing a license is guilty of a misdemeanor punishable by a fine of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), or imprisonment in the county jail for not more than six months, or both, and is subject to other sanctions under this chapter, including subdivisions (b) and (c) of Section 1697.

(2) Any grower who enters into a contract or agreement in violation of this section, shall be subject to a civil action by an aggrieved worker for any claims arising from the contract or agreement that are a direct result of any violation of any state law regulating wages, housing, pesticides, or transportation committed by the unlicensed farm labor contractor. The court shall grant a prevailing plaintiff reasonable attorneys' fees and costs.

(3) Any other party who, upon information and belief, claims a violation of this section, may bring a civil action for injunctive relief on behalf of the general public and, upon prevailing, shall recover reasonable attorneys' fees and costs.

(d) As used in this section:

(1) "Reasonable inquiry" shall mean that, if the person acting in the capacity as a farm labor contractor does not provide an agricultural grower with a copy of his or her current valid license when required to do so, the agricultural grower shall inquire of, and inspect the license of, each such person prior to entering into any contract or agreement. The agricultural grower shall only be required to ascertain that the license presented is valid on its face.

(2) "Agricultural grower" means any person who owns or leases land used for the planting, cultivation, production, harvesting, or packing of any farm products, and includes a packing shed, whether or not he or she owns or leases the land, if he or she hires or uses persons acting as farm labor contractors.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1198

An act to amend Sections 66010, 66014.5, and 66201 of, to add Sections 66010.1, 66010.2, 66010.3, 66010.5, 66010.7, 66024, 66201.5, 66204, 66205, 66207, 66722, and 66722.5 to, to add an article heading immediately preceding Section 66010 of, to add an article heading immediately preceding Section 66010.1 of, to add an article heading immediately preceding Section 66011 of, to add Chapter 1.5 (commencing with Section 66002) to Part 40 of, to add Article 4 (commencing with Section 66030) to Chapter 2 of Part 40 of, to add Article 5 (commencing with Section 66050) to Chapter 2 of Part 40 of, to add Chapter 11.5 (commencing with Section 66950) to Part 40 of, to add Chapter 16 (commencing with Section 67400) to Part 40 of, to repeal Sections 66020 and 66301 of, the Education Code, relating to postsecondary education.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Chapter 1.5 (commencing with Section 66002) is added to Part 40 of the Education Code, to read:

CHAPTER 1.5. LEGISLATIVE FINDINGS

66002. The Legislature finds and declares all of the following:

(a) The Master Plan for Higher Education in California, 1960–75, was originally prepared in 1959, and its recommendations were approved in principle by the affected governing boards of the higher education segments. Subsequently, legislation necessary to implement certain of the master plan's provisions was enacted, including this part. A need to differentiate the functions of the segments of higher education and rapidly increasing enrollments were primary factors that motivated the creation of the master plan.

(b) Pursuant to Resolution Chapter 285 of the Statutes of 1970, and Resolution Chapter 232 of the Statutes of 1971, a joint committee of the Legislature issued its report in 1973, entitled "Report of the Joint Committee on the Master Plan for Higher Education," which reaffirmed the principles of the original master plan and emphasized a need for the segments of higher education to improve access and educational equity, coordination and planning, governance, and diversity within the entire system. As in the 1960's, legislation necessary to implement certain of the joint committee's recommendations was enacted, largely through amendments to this part.

(c) Pursuant to Chapter 1507 of the Statutes of 1984, the Commission for the Review of the Master Plan for Higher Education conducted public hearings and deliberations; in 1987, it issued its

report and recommendations, "The Master Plan Renewed: Unity, Equity, Quality, and Efficiency in California Postsecondary Education."

Building on this report and two more years of public dialogue pursuant to Resolution Chapter 175 of the Statutes of 1984, the Joint Committee for the Review of the Master Plan for Higher Education adopted a comprehensive report in 1989, entitled "California Faces. . .California's Future: Education for Citizenship in a Multicultural Democracy," that affirms the achievements and the basic structure of the 1960 Master Plan for Higher Education and identifies new challenges for California's institutions of higher education.

(d) California faces a period of unprecedented population growth and extraordinary social and economic changes as the 21st century approaches and the state's colleges and universities face tremendous educational challenges while at or near their enrollment capacities.

(e) In the spirit of the original master plan and the two subsequent reviews conducted in the 1970's and 1980's, the Legislature finds and declares the following:

(1) California is on the threshold of becoming a state with a new multicultural majority as the ethnic composition of the population is changing dramatically. The state's future economic, social, and cultural development depends upon ensuring that all its citizens have opportunities to contribute their best to society.

(2) Current estimates indicate that California will need to accommodate hundreds of thousands of additional students by the year 2005 in public higher education institutions. California needs to prepare now for the projected enrollments in the 21st century. And, if the goals of the master plan and its subsequent updates are to be fully achieved, especially if groups that are historically and currently underrepresented increase their rates of participation in higher education, enrollments will exceed even these projections.

(3) California must support an educational system which prepares all Californians for responsible citizenship and meaningful careers in a multicultural society; this requires a commitment from all to make quality education available and affordable for every Californian.

(4) To accomplish these goals, California's system of higher education will need to expand.

66003. It is the intent of the Legislature to outline in statute the broad policy and programmatic goals of the master plan and to expect the higher education segments to be accountable for attaining those goals. However, consistent with the spirit of the original master plan and the subsequent updates, it is the intent of the Legislature that the governing boards be given ample discretion in implementing policies and programs necessary to attain those goals.

SEC. 2. An article heading is added immediately preceding Section 66010 of the Education Code, to read:

Article 1. Definitions

SEC. 3. Section 66010 of the Education Code is amended to read:

66010. (a) Public higher education consists of (1) the California Community Colleges, (2) the California State University, and each campus, branch, and function thereof, (3) each campus, branch, and function of the University of California, and (4) the California Maritime Academy.

(b) As used in this part, "independent institutions of higher education" are those nonpublic higher education institutions which grant undergraduate degrees, graduate degrees, or both, and which are formed as nonprofit corporations in this state and are accredited by an agency recognized by the United States Department of Education.

(c) No provision of this part is intended to regulate, subsidize, or intrude upon private education, including, but not limited to, independent educational institutions and religious schools, nor to vary existing state law or state constitutional provisions relating to private education.

SEC. 4. An article heading is added immediately preceding Section 66010.1 of the Education Code, to read:

Article 2. Comprehensive Mission Statement

SEC. 4.1. Section 66010.1 is added to the Education Code, to read:

66010.1. The purpose of this article is to identify common educational missions shared by educational institutions in California and to differentiate more specific missions and functions between the various educational segments.

SEC. 4.2. Section 66010.2 is added to the Education Code, to read:

66010.2. The public elementary and secondary schools, the California Community Colleges, the California State University, the University of California, and independent institutions of higher education share goals designed to provide educational opportunity and success to the broadest possible range of our citizens, and shall provide the following:

(a) Access to education, and the opportunity for educational success, for all qualified Californians. Particular efforts should be made with regard to those who are historically and currently underrepresented in both their graduation rates from secondary institutions and in their attendance at California higher educational institutions.

(b) Quality teaching and programs of excellence for their students. This commitment to academic excellence shall provide all students the opportunity to address issues, including ethical issues, that are central to their full development as responsible citizens.

(c) Educational equity not only through a diverse and representative student body and faculty but also through educational environments in which each person, regardless of race, gender, age,

disability, or economic circumstances, has a reasonable chance to fully develop his or her potential.

SEC. 4.3. Section 66010.3 is added to the Education Code, to read:

66010.3. The public elementary and secondary schools shall be responsible for academic and general vocational instruction from kindergarten and grades 1 to 12, inclusive, including preparation of pupils for postsecondary instruction, future participation in California's economy and society, and adult instruction to the extent of state support.

SEC. 4.4. Section 66010.5 is added to the Education Code, to read:

66010.5. The mission of the public segments of higher education shall also include a broad responsibility to the public interest, and independent segments of higher education are encouraged to assume a broad responsibility to the public interest. As part of this responsibility, the public and independent segments are encouraged to support programs of public service and to involve faculty and students in these programs.

SEC. 4.5. Section 66010.7 is added to the Education Code, to read:

66010.7. (a) The Legislature, through the enactment of this section, expresses its commitment to encourage and support collaboration and coordination among all segments of education.

(b) Within the differentiation of segmental functions outlined in this article, the institutions of higher education shall undertake intersegmental collaboration and coordination particularly when it can do any of the following:

(1) Enhance the achievement of the institutional missions shared by the segments.

(2) Provide more effective planning of postsecondary education on a statewide basis.

(3) Facilitate achievement of the goals of educational equity.

(4) Enable public and independent higher education to meet more effectively the educational needs of a geographic region.

(5) Facilitate student progress from one segment to another, particularly with regard to preparation of students for higher education as well as the transfer from the California Community Colleges to four-year institutions.

(c) The leaders responsible for public and independent institutions of higher education and the Superintendent of Public Instruction shall work together to promote and facilitate the development of intersegmental programs and other cooperative efforts aimed at improving the progress of students through the educational systems and at strengthening the teaching profession at all levels.

(d) The California Postsecondary Education Commission shall have responsibility for reviewing and evaluating the effectiveness of intersegmental activities in accomplishing the established goals, and shall report its findings to the Governor and Legislature biennially.

SEC. 5. An article heading is added immediately preceding Section 66011 of the Education Code, to read:

Article 3. General Provisions

SEC. 6. Section 66014.5 of the Education Code is amended to read:

66014.5. (a) It is the intent of the Legislature to recognize the role of independent, regionally accredited postsecondary education in California postsecondary education. Statewide planning, policy coordination, and review of postsecondary education shall include attention to the contributions of the independent institutions in meeting the state's goals of access, quality, educational equity, economic development, and student aid.

(b) The Legislature hereby finds and declares that there is a need of providing students with economic and academic freedom of choice in selecting a college or university they wish to attend. The Legislature further finds that an important means of meeting this need is through offering financial assistance to students who wish to attend public or independent colleges and universities and who have demonstrated financial need.

SEC. 7. Section 66020 of the Education Code is repealed.

SEC. 8. Section 66024 is added to the Education Code, to read:

66024. The Legislature hereby affirms its commitment to the continuing quality and development of graduate and professional programs of the University of California, the California State University, and the independent institutions of higher education in this state.

It is the intent of the Legislature that each governing board of an institution of higher education periodically review the quality of the graduate and professional programs operated by the institution, and the need to add, discontinue, or enhance graduate and professional programs, including programs leading to the joint doctorate degree.

It is further the intent of the Legislature that the development of joint doctoral programs operated by the California State University and the University of California or one or more accredited independent institutions of higher education be established and expedited.

All graduate and professional programs, including joint doctoral programs, are expected to undergo careful evaluation and be approved only when it has been demonstrated that these programs meet the needs of students and the state.

SEC. 9. Article 4 (commencing with Section 66030) is added to Chapter 2 of Part 40 of the Education Code, to read:

Article 4. Educational Equity for Students

66030. (a) It is the intent of the Legislature that public higher education in California strive to provide educationally equitable environments which give each Californian, regardless of ethnic origin, race, gender, age, disability, or economic circumstance, a reasonable opportunity to develop fully his or her potential.

(b) It is the responsibility of the governing boards of institutions of higher education to ensure and maintain multicultural learning environments free from all forms of discrimination and harassment, in accordance with state and federal law.

SEC. 10. Article 5 (commencing with Section 66050) is added to Chapter 2 of Part 40 of the Education Code, to read:

Article 5. Quality Undergraduate Education

66050. It is the intent of the Legislature that public institutions of higher education in California shall provide a collegiate experience which gives each student the skills of communication and problem solving, the ideas and principles underlying the major areas of modern knowledge, the ability to consider ethical issues thoughtfully, the understanding that learning is a continuous lifelong process, and the knowledge of democracy necessary for good citizenship. The Legislature further intends that an undergraduate education prepare students to think critically and independently, and to have the flexibility to adapt to changing economic and social conditions, new workforce needs, and demands of a multicultural society. It is also the intent of the Legislature that the segments of higher education recognize that quality teaching is the core ingredient of the undergraduate educational experience. The segments of higher education are encouraged to improve the quality of undergraduate education as a central priority of California's public colleges and universities.

66051. It is the intent of the Legislature that each segmental governing board shall affirm that the oversight of teaching quality is as important a governance issue as its other management and administrative responsibilities. It is further the intent of the Legislature that governing boards shall be proactive in protecting and advancing general education within the undergraduate curriculum.

66052. (a) The Legislature finds and declares that there is a need to encourage policies that enhance the quality of teaching within the segments of higher education.

(b) It is the intent of the Legislature that the University of California adopt and enforce policies and procedures which ensure that quality teaching is an essential criterion, along with research, in the evaluation of faculty for appointment, retention, promotion, and tenure. It is also the intent of the Legislature that the California State University and the governing board of each community college district adopt and enforce policies and procedures that ensure that teaching is given primacy in the evaluation of faculty for appointment, retention, promotion, and tenure.

(c) It is further the intent of the Legislature that the governing board of each public institution of higher education ensure that teaching is an essential criterion in the review of tenured faculty members.

66053. It is the intent of the Legislature that the Regents of the University of California, the Trustees of the California State University, and community college governing boards adopt policies and procedures to ensure that new faculty are competent in classroom teaching and that instructional resources are made available for faculty to enhance their teaching. The Legislature further encourages the University of California, the California State University, and the California Community Colleges to establish appropriate incentives for improving teaching.

SEC. 11. Section 66201 of the Education Code is amended to read:

66201. It is the intent of the Legislature that each resident of California who has the capacity and motivation to benefit from higher education should have the opportunity to enroll in an institution of higher education. Once enrolled, each individual should have the opportunity to continue as long and as far as his or her capacity and motivation, as indicated by academic performance and commitment to educational advancement, will lead him or her to meet academic standards and institutional requirements.

The Legislature hereby reaffirms the commitment of the State of California to provide an appropriate place in California public higher education for every student who is willing and able to benefit from attendance.

SEC. 12. Section 66201.5 is added to the Education Code, to read:

66201.5. It is the intent of the Legislature that both the University of California and the California State University shall seek to maintain an undergraduate student population composed of a ratio of lower division to upper division students of 40 to 60 percent. Consistent with Section 66201, it is the intent of the Legislature that the University of California and the California State University reach and maintain this goal by instituting programs and policies that seek to increase the number of transfer students rather than by denying places to eligible freshmen applicants.

SEC. 13. Section 66204 is added to the Education Code, to read:

66204. (a) The Superintendent of Public Instruction shall assist all school districts to ensure that all public high school pupils have access to a core curriculum that meets the admission requirements of the University of California and the California State University. It is the intent of the Legislature that each public high school shall provide the full precollegiate program, provide adequate course sections in precollegiate programs to accommodate all its pupils, and regularly counsel pupils to enter those programs and courses. There shall be no policy or practice in any public elementary or secondary school of directing, especially for cultural or linguistic reasons, any pupil in kindergarten or any of the grades 1 to 12, inclusive, away from choosing programs which prepare that pupil academically for college.

(b) It is the intent of the Legislature that the public and independent institutions of higher education participate in programs which assist those in elementary and secondary education in meeting

their responsibilities in preparing students for college.

SEC. 14. Section 66205 is added to the Education Code, to read:

66205. (a) In determining the standards and criteria for undergraduate and graduate admissions to the University of California and the California State University, it is the intent of the Legislature that the governing boards do all of the following:

(1) Develop processes which strive to be fair and are easily understandable.

(2) Consider the use of criteria and procedures that allow students to enroll who are otherwise fully eligible and admissible but who have course deficiencies due to circumstances beyond their control, and, when appropriate, provide that the admission requires the student to make up the deficiency.

(3) Consult broadly with California's diverse ethnic and cultural communities.

(b) It is the intent of the Legislature that the University of California and the California State University, pursuant to Section 66201.5, seek to enroll a student body that meets high academic standards and reflects the cultural, racial, geographic, economic, and social diversity of California.

SEC. 15. Section 66207 is added to the Education Code, to read:

66207. This chapter shall supersede any other law which conflicts with this part.

SEC. 16. Section 66301 of the Education Code is repealed.

SEC. 17. Section 66722 is added to the Education Code, to read:

66722. It is the intent of the Legislature that the transfer function shall be a central institutional priority of all segments of higher education in California, and that the segments shall have as a fundamental policy and practice the maintenance of an effective transfer system.

SEC. 18. Section 66722.5 is added to the Education Code, to read:

66722.5. It is the intent of the Legislature that the segments of higher education shall pursue the development of transfer agreement programs that specify the curricular requirements that must be met, and the level of achievement that must be attained, by community college students in order for those students to transfer to the campus, undergraduate college, or major of choice in the public four-year segments.

SEC. 19. Chapter 11.5 (commencing with Section 66950) is added to Part 40 of the Education Code, to read:

CHAPTER 11.5. HIGHER EDUCATION ASSESSMENT ACT OF 1990

66950. The Legislature finds and declares all of the following:

(a) The primary goal of every higher educational institution should be to provide a collegiate experience which gives each student the skills of communication and problemsolving, the ideas and principles underlying the major areas of modern knowledge, the ability to consider critical issues thoughtfully, the understanding that

learning is a continuous lifelong process, and the knowledge of democracy necessary for good citizenship.

(b) To improve performance, educational institutions are encouraged to use effective assessment mechanisms based on positive reinforcement, incentives, and cooperation.

66951. In enacting this chapter, it is the intent of the Legislature to urge the continued development and implementation of assessment processes whereby institutions of higher education establish mechanisms, through program review and improvement, for the assessment of their performance in attempting to improve student learning and comprehension and achieving the expressed state policy goals for higher education of quality, educational equity, employee diversity, student transfer, and student retention. The primary purposes of assessment shall be to improve teaching and learning as well as academic advising. Assessment programs shall be focused on activities that are campus-based, faculty-centered, and student-responsive. Faculty, students, and academic administrators are encouraged to work together in developing assessment programs.

66952. It is the intent of the Legislature to monitor the performance of the University of California, the California State University, and the community colleges in the following areas:

(a) Diversification of student bodies.

(b) Improved student transfer rates.

(c) Improved student retention rates.

(d) Diversification of faculty, nonfaculty academic staff, and administrative positions.

(e) As a part of program review, enhanced student learning, as demonstrated through mechanisms designed to explore improvements in knowledge, skills, and abilities.

SEC. 20. Chapter 16 (commencing with Section 67400) is added to Part 40 of the Education Code, to read:

CHAPTER 16. APPLICABILITY TO UNIVERSITY OF CALIFORNIA

67400. No provision of this part shall apply to the University of California except to the extent that the Regents of the University of California, by appropriate resolution, make that provision applicable.

SEC. 21. Nothing in this act shall be interpreted to expand or diminish the rights, responsibilities, and duties provided for in Chapters 10.7 (commencing with Section 3540) and 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code.

SEC. 22. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000),

reimbursement shall be made from the State Mandate Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1199

An act to amend Sections 8467, 8468, 8468.5, 8469, 8470, 8470.1, 8473.4, 8476, and 8480 of, and to repeal Sections 8465 and 8466 of, the Education Code, relating to child care.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 8465 of the Education Code is repealed.

SEC. 2. Section 8466 of the Education Code is repealed.

SEC. 3. Section 8467 of the Education Code is amended to read:

8467. (a) In determining which applicants shall receive funding, the Superintendent of Public Instruction shall give priority to applicants that meet the following criteria, each of which shall be weighted equally:

(1) The program shall provide care at the public elementary school site, except in those areas where there is no available space on school sites.

(2) Except as provided in Section 8464, the program shall meet the requirements of Section 8463 in the most cost-effective manner. "Cost effective," as used in this paragraph, means an agency's demonstrated ability to utilize existing community resources in meeting the child's child care needs and providing the support services that he or she may require. Criteria for scoring cost effectiveness may include, but shall not be limited to, the proposed daily cost for children receiving extended day care authorized pursuant to this article, which cost shall be competitive with local private market rates.

(b) In allocating funds appropriated to carry out this article, the Superintendent of Public Instruction shall promote access to extended day care services throughout the state.

SEC. 4. Section 8468 of the Education Code is amended to read:

8468. To assure geographic equity in the distribution of funds appropriated for purposes of this chapter, the Superintendent of Public Instruction shall disburse funds for extended day care programs in accordance with all of the following procedures:

(a) To develop a formula to promote geographic equity, the superintendent shall use direct indicators of need for child care. These data shall be combined on a county-by-county basis. However,

counties with populations of fewer than 50,000 persons shall receive funding adequate to establish at least one program.

More specific indicators of need for subsidized child care shall be substituted for, or included in, the formula as they become available.

Each of the following factors shall be given equal weight in the formula for allocation of extended day care funds:

(1) Each county's percentage of the number of children in the state who are in the Aid to Families with Dependent Children program.

(2) Each county's percentage of the number of women in the state's labor force.

(3) Each county's percentage of the number of children in the state who are ages 5 years to 14 years, inclusive.

(b) The Superintendent of Public Instruction shall determine the total dollar amount for each county for publicly subsidized child care services. If the superintendent determines that funds allocated pursuant to this article for a county are not being fully utilized within that county, funds that have not been encumbered by contract may be reallocated for extended day care services pursuant to this article for any county, and allocations in subsequent years may be adjusted accordingly.

(c) The comparison of combined need with all available public and private resources shall guide the superintendent in determining the portion of funds for extended day care services pursuant to this article that will be available to applicant agencies from each county.

The funding for extended day care services shall promote equal access to child care services for eligible families across the state by bringing the relative dollar amounts in each county into closer congruence with the relative need for child care services in each county.

SEC. 5. Section 8468.5 of the Education Code is amended to read:

8468.5. (a) Priority for enrollment in programs supported under this article shall be as follows:

(1) First priority shall be given to recipients of child protective services for children who are neglected or abused, or at risk of being neglected or abused, upon written referral from a legal, medical, social service, or public agency. Within this priority, families with the lowest gross monthly income shall be admitted first. When an agency is unable to enroll a child in need of protective services, the agency shall refer the family to local resource and referral services to locate services for the child.

(2) Second priority shall go to children in kindergarten and grades 1 to 3, inclusive, and their schoolage siblings under the age of 13 years, whose families need extended day care services because parents are engaged in vocational training leading directly to a recognized trade, paraprofession or profession; are employed or seeking employment; or are incapacitated. Within this priority, families with the lowest gross monthly income in relation to family size shall be admitted first.

(3) Third priority shall go to children in grades 4 to 9, inclusive, and their schoolage siblings under the age of 13 years, whose families need extended day care services because parents are engaged in vocational training leading directly to a recognized trade, paraprofession or profession; are employed or seeking employment; or are incapacitated. Within this priority, families with the lowest gross monthly income in relation to family size shall be admitted first.

(4) Agencies may apply to the Superintendent of Public Instruction for a waiver of these priorities, and it may be subject to criteria as may be established by the State Department of Education including all of the following:

(A) Needs assessment.

(B) Community concurrence.

(C) Cost-effectiveness.

(D) Good faith effort to meet the extended day care needs of the siblings of children to be serviced. Nothing in this section alters the priorities specified in this article but is intended, rather, to more effectively meet local needs.

(5) Each program shall serve individuals with exceptional needs, as defined in Section 56026. The percentage of children who are individuals with exceptional needs in each program shall at least equal the percentage of children in kindergarten and grades 1 to 8, inclusive, residing in the school district and receiving special education services, unless the demand for this level of service does not exist. Agencies shall report the delivery of services to children with exceptional needs to the State Department of Education.

(6) To the extent possible, and within the parameters contained in this section, programs should serve a mix of children that reflects substantially the varying socioeconomic, racial, and ethnic backgrounds of the school district in which the agency is located, and a mix of subsidized and nonsubsidized children.

(b) In order for an extended day care program to receive funding, pursuant to this article, for a child served, the child's family shall meet at least one requirement in each of the following areas:

(1) A family shall be one of the following:

(A) A recipient of benefits under the Aid to Families with Dependent Children program, the Supplemental Security Income/State Supplementary Program, or a general assistance program.

(B) Income eligible, with first priority to be given to families with the lowest gross monthly income, adjusted for family size. "Income eligible," for this purpose, means that a family's adjusted monthly income is at or below 84 percent of the state median income, adjusted for family size at the time of initial enrollment, and does not exceed 100 percent of the state median income, adjusted for family size.

(C) One whose children are recipients of protective services, or whose children have been identified as being abused, neglected, or exploited, or at risk of being abused, neglected, or exploited.

(2) A family shall need the child care service because the

requirements of either subparagraph (A) or (B) apply.

(A) The child is identified by a legal, medical, or social service agency as meeting one or more of the following criteria:

(i) The child is a recipient of protective services.

(ii) The child is neglected, abused, or exploited, or at risk of neglect, abuse, or exploitation.

(iii) The child has a medical or psychiatric special need that cannot be met without the provision of extended day care.

(B) The child's parents meet one of the following criteria:

(i) The parents are engaged in vocational training leading directly to a recognized trade, paraprofession, or profession.

(ii) The parents are employed or seeking employment.

(iii) The parents are incapacitated, including a medical or psychiatric need that cannot be met without the provision of extended day care.

(c) The Superintendent of Public Instruction shall establish guidelines according to which the head teacher or a duly authorized representative of the extended day care program shall certify children as eligible for state reimbursement pursuant to this article.

(d) The Superintendent of Public Instruction may grant specific waivers to agencies proposing to accept eligible members of special populations in other than strict income order so long as appropriate fees are paid. The waivers may be used to enable agencies to meet the requirements of this article to serve children with exceptional needs.

SEC. 5.5. Section 8468.5 of the Education Code is amended to read:

8468.5. (a) Priority for enrollment in programs supported under this article shall be as follows:

(1) First priority shall be given to recipients of child protective services for children who are neglected or abused, or at risk of being neglected or abused, upon written referral from a legal, medical, social service, or public agency. Within this priority, families with the lowest gross monthly income shall be admitted first. When an agency is unable to enroll a child in need of protective services, the agency shall refer the family to local resource and referral services to locate services for the child.

(2) Second priority shall go to children in kindergarten and grades 1 to 3, inclusive, and their schoolage siblings under the age of 13, whose families need extended day care services because parents are engaged in vocational training leading directly to a recognized trade, paraprofession or profession; are employed or seeking employment; or are incapacitated. Within this priority, families with the lowest gross monthly income in relation to family size shall be admitted first.

(3) Third priority shall go to children in grades 4 to 9, inclusive, and their schoolage siblings under the age of 13, whose families need extended day care services because parents are engaged in vocational training leading directly to a recognized trade,

paraprofession or profession; are employed or seeking employment; or are incapacitated. Within this priority, families with the lowest gross monthly income in relation to family size shall be admitted first.

(4) Agencies may apply to the Superintendent of Public Instruction for a waiver of these priorities, and the applications may be subject to criteria as may be established by the State Department of Education including all of the following:

(A) Needs assessment.

(B) Community concurrence.

(C) Cost-effectiveness.

(D) Good faith effort to meet the extended day care needs of the siblings of children to be serviced. Nothing in this section alters the priorities specified in this article but is intended, rather, to more effectively meet local needs.

(5) Each program shall serve individuals with exceptional needs, as defined in Section 56026. The percentage of children who are individuals with exceptional needs in each program shall at least equal the percentage of children in kindergarten and grades 1 to 8, inclusive, residing in the school district and receiving special education services, unless the demand for this level of service does not exist. Agencies shall report the delivery of services to children with exceptional needs to the State Department of Education.

(6) To the extent possible, and within the parameters contained in this section, programs should serve a mix of children that reflects substantially the varying socioeconomic, racial, and ethnic backgrounds of the school district in which the agency is located, and a mix of subsidized and nonsubsidized children.

(b) In order for an extended day care program to receive funding, pursuant to this article, for a child served, the child's family shall meet at least one requirement in each of the following areas:

(1) A family shall be one of the following:

(A) A recipient of benefits under the Aid to Families with Dependent Children program, the Supplemental Security Income/State Supplementary Program, or a general assistance program.

(B) Income eligible, with first priority to be given to families with the lowest gross monthly income, adjusted for family size. "Income eligible," for this purpose, means that a family's adjusted monthly income is at or below 84 percent of the state median income, adjusted for family size at the time of initial enrollment, and does not exceed 100 percent of the state median income, adjusted for family size.

(C) One whose children are recipients of protective services, or whose children have been identified as being abused, neglected, or exploited, or at risk of being abused, neglected, or exploited.

(2) A family shall need the child care service because the requirements of either subparagraph (A) or (B) apply.

(A) The child is identified by a legal, medical, or social service agency as meeting one or more of the following criteria:

(i) The child is a recipient of protective services.

(ii) The child is neglected, abused, or exploited, or at risk of neglect, abuse, or exploitation.

(iii) The child has a medical or psychiatric special need that cannot be met without the provision of extended day care.

(B) The child's parents meet one of the following criteria:

(i) The parents are engaged in vocational training leading directly to a recognized trade, paraprofession, or profession.

(ii) The parents are employed or seeking employment.

(iii) The parents are incapacitated, including a medical or psychiatric need that cannot be met without the provision of extended day care.

(c) The superintendent shall establish guidelines according to which the head teacher or a duly authorized representative of the extended day care program shall certify children as eligible for state reimbursement pursuant to this article.

(d) The superintendent may grant specific waivers to agencies proposing to accept eligible members of special populations in other than strict income order so long as appropriate fees are paid. The waivers may be used to enable agencies to meet the requirements of this article to serve children with exceptional needs.

SEC. 6. Section 8469 of the Education Code is amended to read:

8469. Any school district operating an elementary school may subcontract with an operating agency for the purpose of providing extended day care services pursuant to this article.

SEC. 7. Section 8470 of the Education Code is amended to read:

8470. (a) The Superintendent of Public Instruction shall implement a plan that establishes reasonable and cost-effective standards and assigned reimbursement rates. The reimbursement rates established under this section shall be based upon either child days of enrollment or child hours of enrollment, at the option of the agency to be reimbursed.

The maximum reimbursement rate for a full year of extended day care service shall not exceed an average of two thousand one hundred dollars ($2,100) per child per year in the 1985–86 fiscal year, as adjusted annually thereafter by the cost-of-living adjustment established by the Legislature for child care services.

(b) The superintendent shall review annually the implementation of the reimbursement rates, based on child days or child hours of enrollment, established pursuant to subdivision (a), to determine whether the rates are reasonable, cost-effective, and consistent with the goal of increasing the availability of affordable child care services for nonsubsidized children.

SEC. 7.5. Section 8470 of the Education Code is amended to read:

8470. (a) The Superintendent of Public Instruction shall implement a plan that establishes reasonable and cost-effective standards and assigned reimbursement rates. The reimbursement rates established under this section shall be based upon either child days of enrollment or child hours of enrollment, at the option of the agency to be reimbursed.

The maximum reimbursement rate for a full year of extended day care service shall not exceed an average of two thousand one hundred dollars ($2,100) per child per year in the 1985–86 fiscal year, as adjusted annually thereafter by the cost-of-living adjustment established by the Legislature for child care services.

(b) The superintendent shall monitor the reimbursement rates to determine whether the rates are reasonable, cost-effective, and consistent with the goal of increasing the availability of affordable child care services for nonsubsidized children.

(c) At the time of initial contract issuance or upon contract renewal, the State Department of Education shall assess the proposed contract rate and compare it to the following:

(1) The regional market rate, as specified by the most recent data available from regional sources or as determined by Section 11323.6 of the Welfare and Institutions Code.

(2) The program costs, including the agency's administrative and support service costs related to the state contract.

To the extent possible, the State Department of Education shall enter and renew contracts for rates of reimbursement that equal the lesser of these two amounts.

SEC. 7.8. Section 8470.1 is added to the Education Code, to read:

8470.1. The Superintendent of Public Instruction shall review annually the implementation of the reimbursement rates, based on either child days or child hours of enrollment, established pursuant to subdivision (a) of Section 8470, to determine whether the rates are reasonable, cost-effective, and consistent with the goal of increasing the availability of affordable child care services for nonsubsidized children.

SEC. 8. Section 8473.4 of the Education Code is amended to read:

8473.4. Parent fees for subsidized children shall be expended for net reimbursable program costs for additional subsidized children , at a rate not to exceed the assigned reimbursement rate.

SEC. 9. Section 8476 of the Education Code is amended to read:

8476. In order to maximize program flexibility and cost effectiveness and to foster innovation and creativity, the Superintendent of Public Instruction may exempt from any administrative requirements established under this article any programs that are recreational in nature.

SEC. 10. Section 8480 of the Education Code is amended to read:

8480. The advisory committee established pursuant to Section 8286 shall perform all of the following functions with regard to this chapter:

(a) Assist the State Department of Education in developing and reviewing guidelines for the administration of this chapter.

(b) Serve in an advisory capacity to the Superintendent of Public Instruction and the Governor for program policy decisions.

(c) Review the implementation of this chapter.

SEC. 11. Section 5.5 of this bill incorporates amendments to Section 8468.5 of the Education Code proposed by both this bill and

SB 255. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 8468.5 of the Education Code, and (3) this bill is enacted after SB 255, in which case Section 5 of this bill shall not become operative.

SEC. 12. Section 7.5 of this bill incorporates amendments to Section 8470 of the Education Code proposed by both this bill and SB 255. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 8470 of the Education Code, and (3) this bill is enacted after SB 255, in which case Section 7 of this bill shall not become operative.

SEC. 13. Section 7.8 of this bill shall become operative only if SB 255 and this bill are both chaptered and become effective January 1, 1992, and this bill is chaptered after SB 255.

CHAPTER 1200

An act to amend Sections 1502, 1506, and 1534 of, and to add Sections 1506.6, 1522.05, 1522.07, and 1525.25 to, the Health and Safety Code, and to amend Sections 18358.05, 18358.10, 18358.2, and 18358.30 of the Welfare and Institutions Code, relating to foster care, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 1502 of the Health and Safety Code is amended to read:

1502. As used in this chapter:

(a) "Community care facility" means any facility, place, or building which is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children, and includes the following:

(1) "Residential facility" means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(2) "Adult day care facility" means any facility which provides nonmedical care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis.

(3) "Therapeutic day services facility" means any facility which

provides nonmedical care, counseling, educational or vocational support, or social rehabilitation services on less than a 24-hour basis to persons under 18 years of age who would otherwise be placed in foster care or who are returning to families from foster care. Program standards for these facilities shall be developed by the department, pursuant to Section 1530, in consultation with therapeutic day services and foster care providers.

(4) "Foster family agency" means any organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care who require that level of care as an alternative to a group home. Private foster family agencies shall be organized and operated on a nonprofit basis.

(5) "Foster family home" means any residential facility providing 24-hour care for six or fewer foster children which is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. The placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian.

(6) "Small family home" means any residential facility providing 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities.

(7) "Social rehabilitation facility" means any residential facility which provides social rehabilitation services for no longer than 18 months in a group setting to adults recovering from mental illness who temporarily need assistance, guidance, or counseling. Program components shall be subject to program standards pursuant to Section 5458.1 of the Welfare and Institutions Code.

(8) "Community treatment facility" means any residential facility which provides mental health treatment services to children in a group setting. Program components shall be subject to program standards developed by the State Department of Mental Health pursuant to Section 5405 of the Welfare and Institutions Code.

Nothing in this section shall be construed to prohibit or discourage placement of persons who have mental or physical disabilities into any category of community care facility that meets the needs of the individual placed, if the placement is consistent with the licensing regulations of the department.

(9) "Full-service adoption agency" means any licensed entity engaged in the business of providing adoption services, who does all of the following:

(A) Assumes care, custody, and control of a child through relinquishment of the child to the agency or involuntary termination of parental rights to the child.

(B) Assesses the birth parents, prospective adoptive parents, or child.

(C) Places children for adoption.

(D) Supervises adoptive placements.

Private full-service adoption agencies shall be organized and operated on a nonprofit basis.

(10) "Noncustodial adoption agency" means any licensed entity engaged in the business of providing adoption services, who does all of the following:

(A) Assesses the prospective adoptive parents.

(B) Cooperatively matches children freed for adoption, who are under the care, custody, and control of a licensed adoption agency, for adoption, with assessed and approved adoptive applicants.

(C) Cooperatively supervises adoptive placements with a full-service adoptive agency, but does not disrupt a placement or remove a child from a placement.

Private noncustodial adoption agencies shall be organized and operated on a nonprofit basis.

(b) "Department" or "state department" means the State Department of Social Services.

(c) "Director" means the Director of Social Services.

SEC. 1.5. Section 1502 of the Health and Safety Code is amended to read:

1502. As used in this chapter:

(a) "Community care facility" means any facility, place, or building which is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children, and includes the following:

(1) "Residential facility" means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(2) "Adult day care facility" means any facility which provides nonmedical care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis.

(3) "Therapeutic day services facility" means any facility which provides nonmedical care, counseling, educational or vocational support, or social rehabilitation services on less than a 24-hour basis to persons under 18 years of age who would otherwise be placed in foster care or who are returning to families from foster care. Program standards for these facilities shall be developed by the department, pursuant to Section 1530, in consultation with therapeutic day services and foster care providers.

(4) "Foster family agency" means any organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for

placement of children for temporary or permanent care who require that level of care as an alternative to a group home. Private foster family agencies shall be organized and operated on a nonprofit basis.

(5) "Foster family home" means any residential facility providing 24-hour care for six or fewer foster children which is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. The placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian.

(6) "Small family home" means any residential facility, in the licensee's family residence, which provides 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities. A small family home may accept children with special health care needs, pursuant to subdivision (a) of Section 17710 of the Welfare and Institutions Code. In addition to placing children with special health care needs, the department may approve placement of children without special health care needs, up to the licensed capacity.

(7) "Social rehabilitation facility" means any residential facility which provides social rehabilitation services for no longer than 18 months in a group setting to adults recovering from mental illness who temporarily need assistance, guidance, or counseling. Program components shall be subject to program standards pursuant to Section 5458.1 of the Welfare and Institutions Code.

(8) "Community treatment facility" means any residential facility which provides mental health treatment services to children in a group setting. Program components shall be subject to program standards developed by the State Department of Mental Health pursuant to Section 5405 of the Welfare and Institutions Code.

Nothing in this section shall be construed to prohibit or discourage placement of persons who have mental or physical disabilities into any category of community care facility that meets the needs of the individual placed, if the placement is consistent with the licensing regulations of the department.

(9) "Full-service adoption agency" means any licensed entity engaged in the business of providing adoption services, who does all of the following:

(A) Assumes care, custody, and control of a child through relinquishment of the child to the agency or involuntary termination of parental rights to the child.

(B) Assesses the birth parents, prospective adoptive parents, or child.

(C) Places children for adoption.

(D) Supervises adoptive placements.

Private full-service adoption agencies shall be organized and operated on a nonprofit basis.

(10) "Noncustodial adoption agency" means any licensed entity

engaged in the business of providing adoption services, who does all of the following:

(A) Assesses the prospective adoptive parents.

(B) Cooperatively matches children freed for adoption, who are under the care, custody, and control of a licensed adoption agency, for adoption, with assessed and approved adoptive applicants.

(C) Cooperatively supervises adoptive placements with a full-service adoptive agency, but does not disrupt a placement or remove a child from a placement.

Private noncustodial adoption agencies shall be organized and operated on a nonprofit basis.

(b) "Department" or "state department" means the State Department of Social Services.

(c) "Director" means the Director of Social Services.

SEC. 2. Section 1506 of the Health and Safety Code is amended to read:

1506. (a) (1) Any holder of a valid license issued by the department which authorizes the licensee to engage in any foster family agency functions, may use only a certified family home which has been certified by that agency or a licensed foster family home approved for this use by the licensing county pursuant to Section 1506.5.

(2) Any home selected and certified for the reception and care of children by that licensee shall not, during the time it is certified and used only by that agency for these placements or care, be subject to Section 1508. A certified family home may not be concurrently licensed as a foster family home or as any other licensed residential facility.

(b) (1) A foster family agency shall certify to the department that the home has met the department's licensing standards. A foster family agency may require a family home to meet additional standards or be compatible with its treatment approach.

(2) The foster family agency shall issue a certificate of appróval to the certified family home upon its determination that it has met the standards established by the department and before the placement of any child in the home. The certificate shall be valid for a period not to exceed one year. The annual recertification shall require a certified family home to complete at least 12 hours of structured applicable training or continuing education. At least one hour of training during the first six months following initial certification shall be dedicated to meeting the requirements of paragraph (1) of subdivision (b) of Section 11174.1 of the Penal Code.

(3) If the agency determines that the home no longer meets the standards, it shall notify the department and the local placing agency.

(c) The department shall develop licensing regulations differentiating between foster family agencies which provide treatment of children in foster families and those which provide nontreatment services.

(d) As used in this chapter, "certified family home" means a family residence certified by a licensed foster family agency and issued a certificate of approval by that agency as meeting licensing standards, and used only by that foster family agency for placements.

(e) Education requirements for social work personnel for a foster family agency shall be a master's degree from an accredited or state approved graduate school in social work or social welfare, marriage, family, and child counseling, child psychology, child development, counseling psychology, social psychology, or equivalent education and experience, as determined by the state department.

(f) In addition to the degree specifications in subdivision (e), all of the following master's level coursework and field practice shall be required of all new hires for the position of social work personnel effective January 1, 1992:

(1) At least 100 days of field practice in a social service agency setting.

(2) At least nine units of coursework related to children and families.

(3) At least three semester units in working with minority populations.

(4) At least three semester units in child welfare.

Persons who are hired as social work personnel on or after the effective date of this subdivision, as added by the Statutes of 1988, but prior to January 1, 1992, who do not meet the masters level coursework and 100-day field practice requirement listed in this subdivision shall be required to successfully complete that coursework and field practice by December 31, 1991, in order to remain employed as social work personnel in a foster family agency. For those employees who were hired prior to the effective date of this subdivision, they shall not be required to meet the requirements of this subdivision in order to remain employed as social work personnel in a foster family agency.

(g) The State Department of Social Services shall be required to complete the process for the exception to minimum education requirements for social work personnel within 30 days of receiving the exception application of social work personnel qualifications from the foster family agency.

SEC. 3. Section 1506.6 is added to the Health and Safety Code, to read:

1506.6. It is the intent of the Legislature that public and private efforts to recruit foster parents not be competitive and that the total number of foster parents be increased. A foster family agency shall not certify a family home which is licensed by the department or a county. A licensed foster family home shall forfeit its license, pursuant to subdivision (b) of Section 1524, concurrent with final certification by the foster family agency. The department or a county shall not license a family home that is certified by a foster family agency. A certified family home shall forfeit its certificate concurrent with final licensing by the department or a county.

SEC. 4. Section 1522.05 is added to the Health and Safety Code, to read:

1522.05. (a) A foster family agency shall not place a child in a certified family home until the foster family agency has received a criminal record clearance from the department, except as provided in subdivisions (b) and (c).

(b) Any peace officer, or other category of person approved by the department subject to criminal record clearance as a condition of employment, and who has submitted fingerprints and executed a declaration regarding criminal convictions, may receive a child in placement pending the receipt of a criminal record clearance when the certified family home has met all other licensing requirements.

(c) Any person currently licensed pursuant to this chapter by the department or a county, when the certified family home has met all other licensing requirements, and who has submitted fingerprints and executed a declaration regarding criminal convictions, may receive, or continue, a child in placement pending the receipt of a criminal record clearance.

SEC. 5. Section 1522.07 is added to the Health and Safety Code, to read:

1522.07. (a) Notwithstanding subdivision (d) of Section 1522, foster family agencies shall submit fingerprints of their certified foster parent applicants to the Department of Justice using a card provided by the State Department of Social Services for that purpose.

(b) Within 30 calendar days of the receipt of the fingerprints, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided in subdivision (a) of Section 1522. If no criminal record information has been recorded, the Department of Justice shall provide the foster family agency and the State Department of Social Services with a statement of that fact within 15 calendar days of receipt of the fingerprints. If new fingerprints are required for processing, the Department of Justice shall, within 15 calendar days from the date of receipt of the fingerprints, notify the licensee that the fingerprints were illegible.

SEC. 6. Section 1525.25 is added to the Health and Safety Code, to read:

1525.25. (a) It is the intent of the Legislature to provide for proper case management and orderly transition in placement when family home licensing or family home certification changes occur. Placing, licensing, and foster family agencies shall be advised in a timely manner that a licensed foster family home or certified home intends to change its licensing or certification status.

(b) Upon receiving notification that a licensed foster family home is forfeiting its license, the county shall evaluate the needs of any child still placed in the home and determine whether the child requires the level of care to be provided when the home has been certified by a foster family agency. Any child not requiring that level

of care shall be moved to a home that provides the appropriate level of care.

SEC. 7. Section 1534 of the Health and Safety Code is amended to read:

1534. (a) Every licensed community care facility shall be periodically inspected and evaluated for quality of care by a representative or representatives designated by the director. Evaluations shall be conducted at least once per year and as often as necessary to ensure the quality of care being provided.

The department shall notify the community care facility in writing of all deficiencies in its compliance with the provisions of this chapter and the rules and regulations adopted pursuant to this chapter, and shall set a reasonable length of time for compliance by the facility.

Reports on the results of each inspection, evaluation, or consultation shall be kept on file in the department, and all inspection reports, consultation reports, lists of deficiencies, and plans of correction shall be open to public inspection in the county in which the facility is located.

(b) Nothing in this section shall limit the authority of the department to inspect or evaluate a licensed foster family agency, a certified family home, or any aspect of a program where a licensed community care facility is certifying compliance with licensing requirements.

Upon a finding of noncompliance by the department, the department may require a foster family agency to revoke certification of a family home, or take other action the department may deem necessary for the protection of a child placed with the family home. The family home shall be afforded the due process provided pursuant to this chapter.

SEC. 8. Section 18358.05 of the Welfare and Institutions Code is amended to read:

18358.05. (a) The department shall implement intensive treatment foster care programs for eligible children.

(b) (1) The department shall implement the programs in the Counties of Alameda and Yolo, pursuant to the concurrence of the board of supervisors of each participating county and subject to the availability of a foster family agency within the county which can provide the services required by this chapter.

(2) The program shall be limited to one foster family agency in each county. Each foster family agency shall serve a maximum of 20 children under this program during its first year of implementation and no more than 20 additional children per year in each successive year of the program's operation. Each participating foster family agency may accept placements, with approval of the host county, from counties other than its host county up to the maximum of 20 children per year.

(c) As a condition of participating in this program, each foster family agency shall meet all of the following criteria:

(1) It has a program component with a rate classification level of

12 or higher pursuant to Section 11462.

(2) It has either of the following:

(A) Access to a nonpublic school program which provides mental health treatment.

(B) A contract with the county for the provision of mental health treatment for children.

(3) It provides, or arranges for the provision of, all additional services required under this chapter.

SEC. 9. Section 18358.10 of the Welfare and Institutions Code is amended to read:

18358.10. Each foster family agency participating in this program shall provide all of the following personnel and administrative and support services:

(a) (1) Special attention to the selection and training of foster parents.

(2) All participating foster parents shall be provided with at least 60 hours of training in the care of emotionally disturbed children and 12 hours of ongoing in-service training per year. Training shall include, but not be limited to, working with abused and neglected children, progressive crisis intervention, and cardiopulmonary resuscitation. All training shall be completed prior to the child's placement in the home. In two-parent homes, placement may be made after one parent has completed 60 hours of training, provided that the second parent has completed 40 hours of training and completes an additional 20 hours of training within the first six months of placement.

(3) Foster parents shall be provided with all necessary support services.

(b) Caseloads for participating group home social work case managers that do not exceed eight children.

(c) Therapists for the provision of therapy to the child, the biological parents of the child, and the foster parents of the child.

(d) The specific assignment to each certified family home of a trained child/youth counselor with experience in residential treatment.

(1) The child/youth counselor shall have one of the following:

(A) A bachelor's degree in a social science related field and at least six months of experience in working with emotionally disturbed children in institutional settings.

(B) An associate degree in a social science related field and have at least one year's experience in working with emotionally disturbed children in institutional settings.

(2) Each participating foster family agency shall provide each child/youth counselor with 60 hours of training to include, but not be limited to, working with abused and neglected children, progressive crisis intervention, cardiopulmonary resuscitation, and developing treatment plans for emotionally disturbed children. All training shall be completed prior to placing a child in a certified family home for which the child/youth counselor is assigned

responsibility.

(3) Each child/youth counselor shall do all of the following:

(A) Provide up to thirty-one hours per child per week of in-home supportive service to the child and the foster family. This service shall include, but not be limited to, structuring a safe environment for the child and implementing a needs and services plan.

(B) Arrange for coordination services with local education agencies and the service provider's nonpublic school, where applicable.

(e) A 24-hour oncall administrator who is available to respond to emergency situations.

SEC. 10. Section 18358.2 of the Welfare and Institutions Code is amended to read:

18358.2. County welfare departments in participating counties shall do all of the following:

(1) Determine the placement of eligible children in intensive foster care programs. All children placed in the pilot program shall either have a completed level of care assessment indicating a need for services greater than regular foster care or have their placement reviewed by the participating county's existing interagency review team.

(2) Provide routine case management services.

(3) Monitor the implementation of the case plan for the child.

SEC. 11. Section 18358.30 of the Welfare and Institutions Code is amended to read:

18358.30. (a) Rates for foster family agency programs participating under this chapter shall be exempt from the current AFDC-FC foster family agency rate setting system.

(b) Rates for foster family agency programs participating under this chapter shall be set according to the appropriate pilot classification model based on the level of services provided to the eligible child and the certified foster family. In all of the pilot classification models, the foster family agency programs shall:

(1) Provide social work services with case loads not to exceed eight children per worker, except that social worker case loads for children in Pilot Classification Model F shall not exceed 12 children per worker.

(2) Pay an amount of one thousand two hundred dollars ($1,200) per child per month to the certified foster parent or parents.

(3) Perform activities necessary for the administration of the programs, including, but not limited to, training, recruitment, certification, and monitoring of the certified foster parents.

(4) Provide a minimum average of service per week by the in-home support counselor to the eligible child and the certified foster parents depending on the needs of the child and according to the following schedule:

Pilot Classification Model	In-Home Child/Youth Counselor Hours Per Week
A	31 hours
B	25 hours
C	18 hours
D	12 hours
E	6 hours
F	0 hours

(c) The department or placing county, or both, may review the level of services provided by the foster family agency program. If the level of services actually provided are less than those for the pilot classification model upon which the rate for the child was based, the rate shall be adjusted to reflect the pilot classification model actually provided, and an overpayment may be established and recovered by the department.

(d) (1) The standard rate schedule of pilot classification models for the 1990–91 fiscal year shall be:

Pilot Classification Model	Fiscal Year 1990–91 Standard Rate
A	$3539
B	$3245
C	$2950
D	$2656
E	$2360
F	$1990

(2) For the 1991–92 and 1992–93 fiscal years, the standardized rate for each pilot classification model shall be adjusted by an amount equal to the California Necessities Index computed pursuant to the methodology described in Section 11453.

(3) Beginning with the 1993–94 fiscal year, the standardized schedule of rates shall be adjusted annually by an amount equal to the California Necessities Index computed pursuant to Section 11453, subject to the availability of funds.

(e) Rates for foster family agency programs participating under this chapter shall not exceed Pilot Classification Model A at any time during an eligible child's placement. As their needs dictate, eligible children may be placed in a participating intensive foster care program at any of the five pilot classification levels, not to exceed a total of six months at any level other than Pilot Classification Model F.

(f) It is the intent of the Legislature that the pilot classification model and the rate paid to participating foster family agency programs shall decrease as the child's need for services from the

foster family agency decreases. The foster family agency shall notify the placing county and the department of the reduced services and the pilot classification model, and the rate shall be reduced accordingly.

(g) It is the intent of the Legislature to prohibit any duplication of public funding. Therefore, social worker services, payments to certified foster parents, administrative activities, and the services of in-home support counselors that are funded by another public source shall not be counted in determining whether the foster family agency program has met its obligations to provide the items listed in paragraphs (1), (2), (3), and (4) of subdivision (b).

SEC. 12. The State Department of Social Services shall adopt emergency regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code to implement Chapter 1120 of the Statutes of 1986 and Chapter 1142 of the Statutes of 1988. The State Department of Social Services may adopt emergency regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code to implement this act. The adoption of regulations pursuant to this section shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, or safety. The regulations shall become effective immediately upon filing with the Secretary of State. The regulations shall not remain in effect more than 120 days unless the adopting agency complies with all of the provisions of Chapter 3.5 (commencing with Section 11340), as required by subdivision (e) of Section 11346.1 of the Government Code.

SEC. 13. Section 1.5 of this bill incorporates amendments to Section 1502 of the Health and Safety Code proposed by both this bill and AB 760. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, but this bill becomes operative first, (2) each bill amends Section 1502 of the Health and Safety Code, and (3) this bill is enacted after AB 760, in which case Section 1502 of the Health and Safety Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of AB 760, at which time Section 1.5 of this bill shall become operative.

SEC. 14. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution as a result of costs which may be incurred by a local agency or school district because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

Moreover, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000),

reimbursement shall be made from the State Mandates Claims Fund.

Also, notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 15. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that children placed in certified family homes are protected and receive the level of service they require from foster family agencies as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 1201

An act to amend Sections 39510 and 40002 of, to add Sections 39058.3, 39058.5, and 40104 to, and to add Chapter 11 (commencing with Section 41100) to Part 3 of Division 26 of, the Health and Safety Code, relating to air pollution.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. (a) Sections 2 to 8, inclusive, of this act shall become operative on July 1, 1992, unless, prior to that date, one of the following occurs:

(1) The Counties of Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare form a regional air pollution control district pursuant to Chapter 5 (commencing with Section 40300) of Part 3 of Division 26 of the Health and Safety Code.

(2) Those counties form a unified air pollution control district pursuant to Chapter 3 (commencing with Section 40150) of that Part 3.

(b) A district formed pursuant to subdivision (a) shall have all of the following:

(1) A single integrated agency with all staff under one centralized management structure that is able to implement programs on a valleywide basis.

(2) An individual air pollution control officer who is responsible for the issuance of all permits by the agency.

(3) A single budget for the agency with resources allocated based on the program needs of the valley.

(4) A uniform fee structure.

(5) A single hearing board.

(6) A citizen's advisory committee.

(c) A district formed pursuant to subdivision (a) shall have the authority, duty, and resources to do all of the following:

(1) Develop and adopt rules and regulations which are binding on all counties within the agency.

(2) Enforce all permits issued by the agency and all permits issued by the individual county districts prior to formation of the agency.

(3) Review, revise, adopt, and implement any air pollution control plans required within the San Joaquin Valley air basin by state and federal law.

(d) The State Air Resources Board, after a noticed public hearing and opportunity for comments in accordance with the procedures established by Section 41502 of the Health and Safety Code, shall determine whether the criteria in subdivisions (b) and (c) have been met.

(e) If a district is formed as provided in subdivision (a), prior to July 1, 1992, but at a later date, ceases to exist, Sections 2 to 8, inclusive, of this act shall become operative on that later date.

(f) Notwithstanding any other provision of law, any regional air pollution control district or unified air pollution control district formed by the Counties of Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare shall (1) be governed by a district board as described in Section 41102 of the Health and Safety Code, and (2) have the authority set forth in Article 3 (commencing with Section 41120) of Chapter 11 of Part 3 of Division 26 of the Health and Safety Code.

SEC. 2. Section 39058.3 is added to the Health and Safety Code, to read:

39058.3. "Valley district" means the San Joaquin Valley Air Quality Management District created pursuant to Chapter 11 (commencing with Section 41100) of Part 3.

SEC. 3. Section 39058.5 is added to the Health and Safety Code, to read:

39058.5. "Valley district board" means the governing body of the valley district.

SEC. 4. Section 39510 of the Health and Safety Code is amended to read:

39510. (a) The State Air Resources Board is continued in existence in the Resources Agency. The state board shall consist of nine members.

(b) The members shall be appointed by the Governor with the consent of the Senate on the basis of their demonstrated interest and proven ability in the field of air pollution control and their understanding of the needs of the general public in connection with air pollution problems. Five members shall have the following qualifications:

(1) One member shall have training and experience in automotive engineering or closely related fields.

(2) One member shall have training and experience in chemistry, meteorology, or related scientific fields, including agriculture or law.

(3) One member shall be a physician and surgeon or an authority on health effects of air pollution.

(4) One member shall be a public member.

(5) One member shall have the qualifications specified in paragraph (1), (2), or (3) or shall have experience in the field of air pollution control.

(c) Four members shall be board members from the districts. The members shall reflect the qualitative requirements of subdivision (b) to the extent practicable.

(1) Of these four members, one shall be a board member from the south coast district, one shall be a board member from the bay district, and one shall be a board member from the San Diego Air Pollution Control District.

(2) Of these four members, one shall be a board member of the valley district commencing July 1, 1992. Commencing July 1, 1994, the member shall be a board member of one of the other districts. In subsequent years, the same two-year rotation pattern shall be followed.

(d) Any vacancy shall be filled by the Governor within 30 days of the date on which it occurs. If the Governor fails to make an appointment for any vacancy within the 30-day period, the Senate Rules Committee may make the appointment to fill the vacancy in accordance with this section.

(e) While serving on the state board, all members shall exercise their independent judgment as officers of the state on behalf of the interests of the entire state in furthering the purposes of this division. No member of the state board shall be precluded from voting or otherwise acting upon any matter solely because that member has voted or acted upon the matter in his or her capacity as a member of a district board, except that no member of the state board who is also a member of a district board shall participate in any action regarding his or her district taken by the state board pursuant to Sections 41503 to 41505, inclusive.

SEC. 5. Section 40002 of the Health and Safety Code is amended to read:

40002. There is continued in existence and shall be, in every county, a county district, unless the entire county is included within the bay district, the south coast district, the valley district, a regional district, or a unified district.

However, if only a part of the county is included within the bay district, the south coast district, the valley district, a regional district, or a unified district, there is in that part of the county not included within any such district a county district, for which different air quality rules and regulations may be required.

SEC. 6. Section 40104 is added to the Health and Safety Code, to read:

40104. Notwithstanding any other provision of law, a county may delegate air pollution rulemaking and enforcement duties to a duly created joint powers authority established for air pollution control

purposes of which the county is a member.

SEC. 7. Chapter 11 (commencing with Section 41100) is added to Part 3 of Division 26 of the Health and Safety Code, to read:

CHAPTER 11. SAN JOAQUIN VALLEY AIR QUALITY MANAGEMENT DISTRICT

Article 1. General Provisions

41100. The Legislature finds and declares as follows:

(a) The San Joaquin Valley is a meteorological basin in which air pollution is transported across county lines.

(b) The valley has serious air pollution problems. The meteorological conditions of the valley are conducive to the formation of a variety of air pollutants.

(c) In recent years, the valley has experienced a dramatic increase in population, motor vehicle miles traveled, and the number of stationary sources, all of which lead to increased air pollution.

(d) Air pollution is increasingly endangering the health and welfare of the region's citizens and is adversely impacting agriculture, the region's major industry.

(e) Individual county districts have had limited success in reducing air pollution in the valley. There is a need for a basinwide approach to the air pollution problems of the San Joaquin Valley.

(f) Air pollution generated in the San Joaquin Valley is transported to the Sierra Nevada Mountain range and is causing serious damage to the ecosystems of the Sierra Nevada Mountains.

41101. (a) The San Joaquin Valley Air Quality Management District is hereby created. The district consists of the Counties of Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare.

(b) The valley district shall commence operations on July 1, 1992, and on that date shall assume all of the authority, responsibilities, functions, and duties of the county air pollution control districts of those counties which shall be merged into the valley district.

41102. (a) The San Joaquin Valley District Board is the governing body of the valley district and shall exercise all the powers of the valley district.

(b) The valley district board consists of 11 members appointed as follows:

(1) Eight members, one of whom shall be appointed by each of the counties in the valley district. The board of supervisors of each of those counties shall by majority vote appoint one of its members to serve as a member of the valley district board.

(2) Three city members appointed by the cities within the eight counties of the valley district. There shall be not more than one city member selected from one county. One city member shall be selected from the northern region, one from the central region, and

one from the southern region of the valley district. Of the three members, one shall be from a small size city (under 20,000 population), one shall be from a medium size city (between 20,000 and 50,000 population), and one shall be from a large size city (over 50,000 population).

41103. A majority of the members of the valley district board constitutes a quorum for the transaction of business and may act for the valley district board. Voting by the valley district board on the adoption of all items on its agenda shall be by rollcall.

41104. The valley district board shall elect a chairperson every two years from its membership. No member shall serve more than two consecutive terms as chairperson.

41105. The valley district board may, by ordinance, adopt a civil service system for any or all employees of the valley district, except that the air pollution control officer shall be exempt from that system and shall serve at the pleasure of the valley district board.

41106. The valley district board shall establish at least three area offices within the district, and may establish more than three offices. There shall be a northern office located in Modesto, a central office located in Fresno, and a southern office located in Bakersfield. The central office shall be the district headquarters and shall handle all districtwide matters such as planning, adoption of rules and regulations, funding, and budget matters.

Article 2. Powers

41110. The rules and regulations of the county districts shall remain in effect and be enforced by the valley district until the individual rules and regulations are rescinded by the valley district board. The valley district shall, as soon as practicable, review the rules and regulations of the county districts and shall adopt rules and regulations for the valley district.

41111. (a) The valley district board shall develop and adopt the plans necessary to comply with applicable federal and state law, including Chapter 10 (commencing with Section 40910). The valley district board shall adopt rules and regulations that carry out the plans.

(b) In developing and adopting the plans, rules, and regulations pursuant to this section, the valley district board shall consider the relative contribution of stationary, indirect, areawide, and mobile sources, subject to its jurisdiction, to the basinwide emission inventory.

(c) In developing and adopting the plans, rules, and regulations pursuant to this section, the valley district board shall also consider the cumulative impacts of vehicular and nonvehicular emissions on the ecosystems of the Sierra Nevada Mountains.

(d) Based on the determinations of the state board subject to Section 39610, the district shall consider subregional air quality impacts due to transported air pollutants and the need for additional

required controls, consistent with the requirements adopted pursuant to subdivision (b) of Section 39610, in developing and adopting the plans, rules, and regulations pursuant to this section.

(e) Upon completion of the San Joaquin Valley Air Quality Study, the valley district board shall consider the results in the development of the next regularly scheduled air quality plan update, taking into account the performance, reliability, and consistency with approved modeling guidelines, of the model or models used in the study.

41112. (a) The valley district board shall adopt regulations, as follows:

(1) To require owners or operators of public or commercial motor vehicle fleets, or both, including those operated by the state, to periodically submit information to the valley district on the number and type of vehicles operated within the district, including, but not limited to, the amount and type of fuel used, for use by the district in ascertaining the contribution of these vehicles to air pollution emissions within the district.

(2) To require operators of public and commercial fleet vehicles, when adding vehicles to, or replacing vehicles in, an existing fleet or when purchasing vehicles to form a new fleet, to purchase low-emission motor vehicles, and to require, to the maximum extent feasible or appropriate, that those vehicles be operated on a cleaner burning alternative fuel.

(b) Rules and regulations adopted under this section shall be applicable to vehicles operated by the state only when funds necessary to pay the costs to the state to comply with those rules and regulations have been appropriated for that purpose.

41113. (a) No provision of this chapter limits the power of any city or county included within the valley district to adopt any ordinance with respect to air pollution control which is stricter than the rules and regulations adopted by the valley district board and not in conflict therewith. The valley district board shall enforce any such ordinance.

(b) At the request of the governing body of any city or county included within the valley district, the valley district board may make available, on a temporary basis, the necessary personnel, equipment, and services to assist in adopting any ordinance stricter than the rules and regulations adopted by the valley district.

41114. The valley district board shall have the general powers and duties specified in Chapter 6 (commencing with Section 40700). The valley district may adopt regulations to limit or mitigate the impact on air quality of indirect or areawide sources consistent with Section 40716.

Article 3. Financial Provisions

41120. The valley district board may borrow money and incur indebtedness in anticipation of the revenue for the current year in which the indebtedness is incurred or for the ensuing year. The

indebtedness shall not exceed the total amount of the estimate of the income for either the current year or the ensuing year.

41121. The valley district board may adopt a schedule of fees levied on sources regulated by the district which shall, to the extent feasible and practicable, recover from each category of sources, including areawide, indirect, and permitted, the costs of the district's programs related to those categories consistent with Section 42311. The valley district board may adopt a fee schedule for variances and permits to cover the cost of planning, inspection, and monitoring related thereto. The valley district's fees may be varied according to the quantity of emissions and the effect of those emissions on the ambient air quality within the valley district.

41122. The board of supervisors of each county, included in whole or in part, within the valley district may appropriate any funds that are necessary to carry out the purposes of the valley district, as determined by the valley district board.

Article 4. Advisory Council

41125. As used in this article, "council" means the San Joaquin Valley Air Quality Management Advisory Council.

41126. (a) The council members shall be appointed by the valley district board and shall reflect the geographic diversity of the valley district. Council members shall also reflect a balance of skill and experience in air pollution control, public health, environmental issues, and the regulated community.

(b) The chair of the valley district board shall serve as an ex officio member.

41127. Each council member shall hold office for a term of two years and until the appointment and qualification of his or her successor.

41128. Any member of the council may be removed at any time by the majority vote of the valley district board.

41129. Any vacancy on the council shall be filled by appointment in the same manner as the vacating member was appointed, except that the member appointed to fill the vacancy shall only serve the unexpired term of the vacating member.

41130. Council members shall serve without compensation, but may be allowed actual expenses incurred in the discharge of their duties.

41131. The council shall select a chair and vice chair and any other officers that it determines to be necessary.

41132. The council shall meet as frequently as the valley district board or the council determines to be necessary, but not less than four times a year.

41133. The council shall advise and consult with the valley district board in effectuating the purposes of this chapter.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those

costs for which the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1202

An act to amend Section 48909 of the Education Code, to amend Section 13968 of the Government Code, to amend Sections 417, 626.9, 853.6a and 1203.9 of the Penal Code, and to amend Sections 256, 257, 258, 601.3, 650, 653, 654, 655, 740, and 827 of, to add Sections 256.5 and 727.5 to, and to repeal Sections 259 and 259.1 of, the Welfare and Institutions Code, relating to minors.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 48909 of the Education Code is amended to read:

48909. When a petition is requested in juvenile court or a complaint is filed in any court alleging that a minor of compulsory school attendance age or any pupil currently enrolled in a public school in a grade to and including grade 12 is a person who (a) has used, sold, or possessed narcotics or other hallucinogenic drugs or substances; (b) has inhaled or breathed the fumes of, or ingested any poison classified as such in Section 4160 of the Business and Professions Code; or (c) has committed felonious assault, homicide, or rape the district attorney may, within 48 hours, provide written notice to the superintendent of the school district of attendance, notwithstanding the provisions of Section 827 of the Welfare and Institutions Code, and to the pupil's parent or guardian.

SEC. 2. Section 13968 of the Government Code is amended to read:

13968. (a) The board is hereby authorized to make all needful rules and regulations consistent with the law for the purposes of

carrying into effect this article.

(b) It shall be the duty of every hospital licensed under the laws of this state to display prominently in its emergency room posters giving notification of the existence and general provisions of this chapter, and the existence and locations of local victim centers. The board, in cooperation with local victim centers, shall set standards for the location of such a display and shall provide posters, application forms, and general information regarding the provisions of this chapter to each hospital and physician licensed to practice in the State of California.

(c) It shall be the duty of every local law enforcement agency to inform victims of crimes of the provisions of this chapter, of the existence of local victim centers, and in counties where no local victim center exists, to provide application forms to victims who desire to seek assistance pursuant to this article. The board shall provide application forms and all other documents which local law enforcement agencies and victim centers may require to comply with this section. The board, in cooperation with local victim centers shall set standards to be followed by local law enforcement agencies for this purpose and may require them to file with the board a description of the procedures adopted by each agency to comply.

(d) Notwithstanding Section 827 of the Welfare and Institutions Code or any other provision of law, every law enforcement and social service agency in the state shall provide to the board or to the designated local victim centers, upon request, a copy of a petition filed in a juvenile court proceeding, reports of the probation officer, any other document made available to the probation officer or to the judge, referee, or other hearing officer, a complete copy of the report regarding the incident and any supplemental reports involving the crime, public offense, or incident giving rise to a claim, for the specific purpose of the submission of a claim or the determination of eligibility to submit a claim filed pursuant to this article. The board or designated local victim centers shall refuse to allow inspection of a document which personally identifies a minor by anyone other than the minor who is so identified, his or her custodial parent or guardian, the attorneys for those parties, and such other persons as may be designated by court order of the judge of the juvenile court. Any information received pursuant to this section shall be received in confidence for the limited purpose for which it was provided and shall not be further disseminated. A violation of this subdivision is a misdemeanor punishable by a fine not to exceed five hundred dollars ($500).

(e) The law enforcement agency supplying the information may, at its discretion, withhold the names of witnesses or informants from the board, if the release of such names would be detrimental to the parties or to an investigation currently in progress.

(f) Notwithstanding any other provision of law, every state agency, department, division, board, or commission, upon receipt of a copy of a release signed in accordance with the Information

Practices Act of 1977 by the applicant or other authorized representative, shall provide to the board or local victim center the information necessary to complete the verification of an application filed pursuant to this article.

SEC. 2.5. Section 13968 of the Government Code is amended to read:

13968. (a) The board is hereby authorized to make all needful rules and regulations for the purposes of carrying into effect this article. All rules and regulations adopted pursuant to this subdivision shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3.

(b) It shall be the duty of every hospital licensed under the laws of this state to display prominently in its emergency room posters giving notification of the existence and general provisions of this chapter, and the existence and locations of local victim centers. The board, in cooperation with local victim centers, shall set standards for the location of such a display and shall provide posters, application forms, and general information regarding the provisions of this chapter to each hospital and physician licensed to practice in the State of California.

(c) It shall be the duty of every local law enforcement agency to inform victims of crimes of the provisions of this chapter, of the existence of local victim centers, and in counties where no local victim center exists, to provide application forms to victims who desire to seek assistance pursuant to this article. The board shall provide application forms and all other documents which local law enforcement agencies and victim centers may require to comply with this section. The board, in cooperation with local victim centers shall set standards to be followed by local law enforcement agencies for this purpose and may require them to file with the board a description of the procedures adopted by each agency to comply.

(d) Notwithstanding Section 827 of the Welfare and Institutions Code or any other provision of law, every law enforcement and social service agency in the state shall provide to the board or to the designated local victim centers, upon request, a copy of a petition filed in a juvenile court proceeding, reports of the probation officer, any other document made available to the probation officer or to the judge, referee, or other hearing officer, a complete copy of the report regarding the incident and any supplemental reports involving the crime, public offense, or incident giving rise to a claim, for the specific purpose of the submission of a claim or the determination of eligibility to submit a claim filed pursuant to this article. The board or designated local victim centers shall refuse to allow inspection of a document which personally identifies a minor by anyone other than the minor who is so identified, his or her custodial parent or guardian, the attorneys for those parties, and such other persons as may be designated by court order of the judge of the juvenile court. Any information received pursuant to this section shall be received in confidence for the limited purpose for which it was provided and

shall not be further disseminated. A violation of this subdivision is a misdemeanor punishable by a fine not to exceed five hundred dollars ($500).

(e) The law enforcement agency supplying the information may, at its discretion, withhold the names of witnesses or informants from the board, if the release of such names would be detrimental to the parties or to an investigation currently in progress.

(f) Notwithstanding any other provision of law, every state agency, department, division, board, or commission, upon receipt of a copy of a release signed in accordance with the Information Practices Act of 1977 by the applicant or other authorized representative, shall provide to the board or local victim center the information necessary to complete the verification of an application filed pursuant to this article.

SEC. 3. Section 417 of the Penal Code is amended to read:

417. (a) (1) Every person who, except in self-defense, in the presence of any other person, draws or exhibits any deadly weapon whatsoever, other than a firearm, in a rude, angry, or threatening manner, or who in any manner, unlawfully uses the same in any fight or quarrel is guilty of a misdemeanor punishable by imprisonment in the county jail for a term of not less than 30 days.

(2) Every person who, except in self-defense, in the presence of any other person, draws or exhibits any firearm, whether loaded or unloaded, in a rude, angry, or threatening manner, or who in any manner, unlawfully uses the same in any fight or quarrel is guilty of a misdemeanor punishable by imprisonment in the county jail for a term of not less than three months.

(b) Every person who, except in self-defense, in the presence of any other person, draws or exhibits any loaded firearm in a rude, angry, or threatening manner, or who, in any manner, unlawfully uses any loaded firearm in any fight or quarrel upon the grounds of any day care center, as defined in Section 1596.76 of the Health and Safety Code, or any facility where programs, including day care programs or recreational programs, are being conducted for persons under 18 years of age, including programs conducted by a nonprofit organization, during the hours in which the center or facility is open for use, shall be punished by imprisonment in the state prison for one, two, or three years, or by imprisonment in a county jail for a term of not less than three months, nor more than one year.

(c) Every person who, in the immediate presence of a peace officer, draws or exhibits any firearm, whether loaded or unloaded, in a rude, angry, or threatening manner, and who knows or reasonably should know that the victim is a peace officer engaged in the performance of his or her duties, and that peace officer is engaged in the performance of his or her duties is guilty of a felony punishable by imprisonment in the county jail for a term of not less than nine months and not to exceed one year, or in the state prison.

As used in this section, "peace officers" refers to any person designated as a peace officer by Section 830.1, Section 830.2,

subdivision (a) of Section 830.3, or Section 830.5.

SEC. 4. Section 626.9 of the Penal Code is amended to read:

626.9. (a) Any person who brings or possesses a loaded firearm upon the grounds of, or within, any public school, including the University of California, the California State University, the California Community Colleges, or any private school providing instruction in kindergarten or grades 1 to 12, inclusive, or any private university or college, unless it is with the written permission of the school district superintendent, his or her designee, or equivalent school authority, shall be punished by imprisonment in the state prison for two, three, or four years.

(b) Any person who brings or possesses a firearm upon the grounds of, or within, any public school, including the University of California, the California State University, the California Community Colleges, any private school providing instruction in kindergarten or grades 1 to 12, inclusive, or any private university or college, unless it is with the written permission of the school district superintendent, his or her designee, or equivalent school authority, shall be punished by imprisonment in the state prison for one, two, or three years.

(c) This section shall not apply to a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in California, any person summoned by any of these officers to assist in making arrests or preserving the peace while he or she is actually engaged in assisting the officer, a member of the military forces of this state or of the United States who is engaged in the performance of his or her duties, a person holding a valid license to carry the firearm pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4, or an armored vehicle guard, who is engaged in the performance of his or her duties, as defined in subdivision (e) of Section 7521 of the Business and Professions Code.

(d) For purposes of this section, a firearm shall be deemed to be loaded when there is an unexpended cartridge or shell, consisting of a case which holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm. A muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder.

SEC. 5. Section 853.6a of the Penal Code is amended to read:

853.6a. If the person arrested appears to be under the age of 18 years, and the arrest is for a violation listed in Section 256 of the Welfare and Institutions Code, the notice under Section 853.6 shall instead provide that the person shall appear before the juvenile court, a juvenile court referee, or a juvenile traffic hearing officer within the county in which the offense charged is alleged to have been committed, and the officer shall instead, as soon as practicable, file the duplicate notice with the prosecuting attorney unless the

prosecuting attorney directs the officer to file the duplicate notice with the clerk of the juvenile court, the juvenile court referee, or the juvenile traffic hearing officer. If the notice is filed with the prosecuting attorney, within 48 hours before the date specified on the notice to appear, the prosecutor, within his or her discretion, may initiate proceedings by filing the notice or a formal petition with the clerk of the juvenile court, or the juvenile court referee or juvenile traffic hearing officer, before whom the person is required to appear by the notice.

SEC. 6. Section 1203.9 of the Penal Code is amended to read:

1203.9. (a) Whenever any person is released upon probation, the case may be transferred to any court of the same rank in any other county in which the person resides permanently, meaning the stated intention to remain for the duration of probation; provided that the court of the receiving county shall first be given an opportunity to determine whether the person does reside in and has stated the intention to remain in that county for the duration of probation. If the court finds that the person does not reside in or has not stated an intention to remain in that county for the duration of probation, it may refuse to accept the transfer. The court and the probation department shall give the matter of investigating those transfers precedence over all actions or proceedings therein, except actions or proceedings to which special precedence is given by law, to the end that all those transfers shall be completed expeditiously.

(b) If the court of the receiving county finds that the person does permanently reside in or has permanently moved to such county, it may, in its discretion, either accept the entire jurisdiction over the case, or assume supervision of the probationer on a courtesy basis.

(c) The order of transfer shall contain an order committing the probationer to the care and custody of the probation officer of the receiving county. A copy of the orders and probation reports shall be transmitted to the court and probation officer of the receiving county within two weeks of the finding by that county that the person does permanently reside in or has permanently moved to that county, and thereafter the receiving court shall have entire jurisdiction over the case, with the like power to again request transfer of the case whenever it seems proper.

SEC. 7. Section 256 of the Welfare and Institutions Code is amended to read:

256. Subject to the orders of the juvenile court, a traffic hearing officer may hear and dispose of any case in which a minor under the age of 18 years as of the date of the alleged offense is charged with (1) any violation of the Vehicle Code not declared to be a felony, (2) a violation of subdivision (m) of Section 602 of the Penal Code, (3) a violation of the Fish and Game Code not declared to be a felony, (4) a violation of any of the equipment and registration provisions of the Harbors and Navigation Code, (5) a violation of any provision of an ordinance of a city, county, or local agency relating to traffic offenses, or to nontraffic offenses regarding loitering, curfew, or

evasion of fares on a public transportation system, as defined by Section 99211 of the Public Utilities Code, (6) a violation of Section 27176 of the Streets and Highways Code, (7) a violation of Section 640 or 640a of the Penal Code, (8) a violation of the rules and regulations established pursuant to Sections 5003 and 5008 of the Public Resources Code, (9) a violation of Section 25658, 25658.5, 25661, or 25662 of the Business and Professions Code, (10) a violation of subdivision (f) of Section 647 of the Penal Code, or (11) any infraction.

SEC. 8. Section 256 of the Welfare and Institutions Code is amended to read:

256. Subject to the orders of the juvenile court, a traffic hearing officer may hear and dispose of any case in which a minor under the age of 18 years as of the date of the alleged offense is charged with (1) any violation of the Vehicle Code not declared to be a felony, (2) a violation of subdivision (m) of Section 602 of the Penal Code, (3) a violation of the Fish and Game Code not declared to be a felony, (4) a violation of any of the equipment and registration provisions of the Harbors and Navigation Code, (5) a violation of any provision of an ordinance of a city, county, or local agency relating to traffic offenses, or to nontraffic offenses regarding loitering, curfew, or evasion of fares on a public transportation system, as defined by Section 99211 of the Public Utilities Code, (6) a violation of Section 27176 of the Streets and Highways Code, (7) a violation of Section 640 or 640a of the Penal Code, (8) a violation of the rules and regulations established pursuant to Sections 5003 and 5008 of the Public Resources Code, (9) a violation of Section 33211.6 of the Public Resources Code, (10) a violation of Section 25658, 25658.5, 25661, or 25662 of the Business and Professions Code, (11) a violation of subdivision (f) of Section 647 of the Penal Code, (12) a misdemeanor violation of Section 594 of the Penal Code, involving defacing property with paint or any other liquid, or (13) any infraction.

SEC. 9. Section 256.5 is added to the Welfare and Institutions Code, to read:

256.5. A traffic hearing officer may request the juvenile court judge or referee to issue a warrant of arrest against a minor who is issued and signs a written notice to appear for any violation listed in Section 256 and who fails to appear at the time and place designated in the notice. The juvenile court judge or referee may issue and have delivered for execution a warrant of arrest against a minor within 20 days after the minor's failure to appear as promised or within 20 days after the minor's failure to appear after a lawfully granted continuance of his or her promise to appear.

SEC. 10. Section 257 of the Welfare and Institutions Code is amended to read:

257. With the consent of the minor, a hearing before a traffic hearing officer, or a hearing before a referee or a judge of the juvenile court, where the minor is charged with a traffic offense or a nontraffic offense as specified in this section, may be conducted

upon an exact legible copy of a written notice given pursuant to Article 2 (commencing with Section 40500) of Chapter 2 of Division 17 or Section 41103 of the Vehicle Code, or an exact legible copy of a written notice given pursuant to Chapter 5C (commencing with Section 853.6) of Title 3 of Part 2 of the Penal Code when the offense charged is a violation listed in Section 256, in lieu of a petition as provided in Article 16 (commencing with Section 650).

SEC. 11. Section 258 of the Welfare and Institutions Code is amended to read:

258. (a) Upon a hearing conducted in accordance with Section 257, and upon either an admission by the minor of the commission of a violation charged, or a finding that the minor did in fact commit the violation, the judge, referee, or traffic hearing officer may do any of the following:

(1) Reprimand the minor and take no further action.

(2) Request the probation officer to commence a proceeding as provided in Article 16 (commencing with Section 650).

(3) Direct that the probation officer undertake a program of supervision of the minor for a period not to exceed six months, in addition to or in place of the following orders.

(4) Order that the minor pay a fine up to the amount that an adult would pay for the same violation, unless the violation is otherwise specified within this section, in which case the fine shall not exceed two hundred fifty dollars ($250). This fine may be levied in addition to or in place of the following orders and the court may waive any or all of this fine, if the minor is unable to pay. In determining the minor's ability to pay, the court shall not consider the ability of the minor's family to pay.

(5) Make any or all of the following orders with respect to a traffic violation which is not charged as a felony:

(A) That the driving privileges of the minor be suspended or restricted as provided in the Vehicle Code or, notwithstanding Section 13203 of the Vehicle Code or any other provision of law, when the Vehicle Code does not provide for the suspension or restriction of driving privileges, that, in addition to any other order, the driving privileges of the minor be suspended or restricted for a period of not to exceed 30 days.

(B) That the minor attend traffic school over a period not to exceed 60 days.

(C) That the minor produce satisfactory evidence that the vehicle or its equipment has been made to conform with the requirements of the Vehicle Code pursuant to Section 40150 of the Vehicle Code.

(D) That the minor perform community service work in a public entity or any private nonprofit entity, for not more than 50 hours over a period of 60 days, during times other than his or her hours of school attendance or employment. Work performed pursuant to this subparagraph shall not exceed 30 hours during any 30-day period. The time frames established by this subparagraph shall not be modified except in unusual cases where the interests of justice would

best be served. When the order to work is made by a referee or a traffic hearing officer, it shall be approved by a judge of the juvenile court.

For the purposes of this subparagraph, a judge, referee, or traffic hearing officer shall not, without the consent of the minor, order the minor to perform work with a private nonprofit entity that is affiliated with any religion.

(6) Make any or all of the following orders with respect to a violation of the Fish and Game Code which is not charged as a felony:

(A) That the fishing or hunting license involved be suspended or restricted.

(B) That the minor work in a park or conservation area for a total of not to exceed 20 hours over a period not to exceed 30 days, during times other than his or her hours of school attendance or employment.

(C) That the minor forfeit, pursuant to Section 12157 of the Fish and Game Code, any device or apparatus designed to be, and capable of being, used to take birds, mammals, fish, reptiles, or amphibia and which was used in committing the violation charged. The judge, referee, or traffic hearing officer shall, if the minor committed an offense which is punishable under Section 12008 of the Fish and Game Code, order the device or apparatus forfeited pursuant to Section 12157 of the Fish and Game Code.

(7) If the violation charged is of an ordinance of a city, county, or local agency relating to loitering, curfew, or fare evasion on a public transportation system, as defined by Section 99211 of the Public Utilities Code, or is a violation of Section 640 or 640a of the Penal Code, make the order that the minor shall perform community service for a total time not to exceed 20 hours over a period not to exceed 30 days, during times other than his or her hours of school attendance or employment.

(b) The judge, referee, or traffic hearing officer shall retain jurisdiction of the case until all orders made under this section have been fully complied with.

SEC. 12. Section 259 of the Welfare and Institutions Code is repealed.

SEC. 13. Section 259.1 of the Welfare and Institutions Code is repealed.

SEC. 14. Section 601.3 of the Welfare and Institutions Code is amended to read:

601.3. (a) If the district attorney or the probation officer receives notice from the school district pursuant to subdivision (b) of Section 48260.6 of the Education Code that a minor continues to be classified as a truant after the parents or guardians have been notified pursuant to subdivision (a) of Section 48260.5 of the Education Code, or if the district attorney or the probation officer receives notice from the school attendance review board pursuant to subdivision (a) of Section 48263.5 of the Education Code that a minor continues to be classified as a truant after review and counseling by the school

attendance review board, the district attorney or the probation officer may request the parents or guardians and the child to attend a meeting in the district attorney's office or at the probation department to discuss the possible legal consequences of the minor's truancy.

(b) Notice of a meeting to be held pursuant to this section shall contain all of the following:

(1) The name and address of the person to whom the notice is directed.

(2) The date, time, and place of the meeting.

(3) The name of the minor classified as a truant.

(4) The section pursuant to which the meeting is requested.

(5) Notice that the district attorney may file a criminal complaint against the parents or guardians pursuant to Section 48293 of the Education Code for failure to compel the attendance of the minor at school.

(c) Notice of a meeting to be held pursuant to this section shall be served at least five days prior to the meeting on each person required to attend the meeting. Service shall be made personally or by certified mail with request for return receipt.

(d) At the commencement of the meeting authorized by this section, the district attorney or the probation officer shall advise the parents or guardians and the child that any statements they make could be used against them in subsequent court proceedings.

(e) Upon completion of the meeting authorized by this section, the probation officer or district attorney after consultation with the probation officer may file a petition pursuant to Section 601 if the district attorney or the probation officer determines that available community resources cannot resolve the truancy problem, or if the pupil or the parents or guardians of the pupil, or both, have failed to respond to services provided or to the directives of the school, the school attendance review board, the probation officer, or the district attorney.

(f) The truancy mediation program authorized by this section may be established by the district attorney or by the probation officer. The district attorney and the probation officer shall coordinate their efforts and shall cooperate in determining which office is best able to operate a truancy mediation program in their county pursuant to this section.

SEC. 15. Section 650 of the Welfare and Institutions Code is amended to read:

650. (a) Juvenile court proceedings to declare a minor a ward of the court pursuant to Section 601 are commenced by the filing of a petition by the probation officer except as specified in subdivision (b).

(b) Juvenile court proceedings to declare a minor a ward of the court pursuant to subdivision (e) of Section 601.3 may be commenced by the filing of a petition by the probation officer or the district attorney after consultation with the probation officer.

(c) Juvenile court proceedings to declare a minor a ward of the court pursuant to Section 602 are commenced by the filing of a petition by the prosecuting attorney.

SEC. 16. Section 653 of the Welfare and Institutions Code is amended to read:

653. Whenever any person applies to the probation officer or the district attorney in accordance with subdivision (e) of Section 601.3, to commence proceedings in the juvenile court, the application shall be in the form of an affidavit alleging that there was or is within the county, or residing therein, a minor within the provisions of Section 601 and setting forth facts in support thereof. The probation officer or the district attorney in consultation with the probation officer shall immediately make such investigation as he or she deems necessary to determine whether proceedings in the juvenile court should be commenced.

SEC. 17. Section 654 of the Welfare and Institutions Code is amended to read:

654. In any case in which a probation officer, after investigation of an application for a petition or any other investigation he or she is authorized to make concludes that a minor is within the jurisdiction of the juvenile court or will probably soon be within that jurisdiction, the probation officer may, in lieu of filing a petition to declare a minor a dependent child of the court or a minor or a ward of the court under Section 601 or requesting that a petition be filed by the prosecuting attorney to declare a minor a ward of the court under subdivision (e) of Section 601.3 or Section 602 and with consent of the minor and the minor's parent or guardian, delineate specific programs of supervision for the minor, for not to exceed six months, and attempt thereby to adjust the situation which brings the minor within the jurisdiction of the court or creates the probability that the minor will soon be within that jurisdiction. Nothing in this section shall be construed to prevent the probation officer from filing a petition or requesting the prosecuting attorney to file a petition at any time within the six-month period or a 90-day period thereafter. If the probation officer determines that the minor has not involved himself or herself in the specific programs within 60 days, the probation officer shall immediately file a petition or request that a petition be filed by the prosecuting attorney. However, when in the judgment of the probation officer the interest of the minor and the community can be protected, the probation officer shall make a diligent effort to proceed under this section.

The program of supervision of the minor undertaken pursuant to this section may call for the minor to obtain care and treatment for the misuse of or addiction to controlled substances from a county mental health service or other appropriate community agency.

The program of supervision shall require the parents or guardians of the minor to participate with the minor in counseling or education programs, including, but not limited to, parent education and parenting programs operated by community colleges, school

districts, or other appropriate agencies designated by the court if the program of supervision is pursuant to the procedure prescribed in Section 654.2.

Further, this section shall authorize the probation officer with consent of the minor and the minor's parent or guardian to provide the following services in lieu of filing a petition:

(a) Maintain and operate sheltered-care facilities, or contract with private or public agencies to provide these services. The placement shall be limited to a maximum of 90 days. Counseling services shall be extended to the sheltered minor and his or her family during this period of diversion services. The minor and his or her parents may be required to make full or partial reimbursement for the services rendered the minor and his or her family during the diversion process. Referrals for sheltered-care diversion may be made by the minor, his or her family, schools, any law enforcement agency, or any other private or public social service agency.

(b) Maintain and operate crisis resolution homes, or contract with private or public agencies offering these services. Residence at these facilities shall be limited to 20 days during which period individual and family counseling shall be extended the minor and his or her family. Failure to resolve the crisis within the 20-day period may result in the minor's referral to a sheltered-care facility for a period not to exceed 90 days. Referrals shall be accepted from the minor, his or her family, schools, law enforcement or any other private or public social service agency. The minor, his or her parents, or both, may be required to reimburse the county for the cost of services rendered at a rate to be determined by the county board of supervisors.

(c) Maintain and operate counseling and educational centers, or contract with private and public agencies, societies, or corporations whose purpose is to provide vocational training or skills. The centers may be operated separately or in conjunction with crisis resolution homes to be operated by the probation officer. The probation officer shall be authorized to make referrals to the appropriate existing private or public agencies offering similar services when available.

At the conclusion of the program of supervision undertaken pursuant to this section, the probation officer shall prepare and maintain a followup report of the actual program measures taken.

SEC. 18. Section 655 of the Welfare and Institutions Code is amended to read:

655. (a) When any person has applied to the probation officer, pursuant to Section 653, to request commencement of juvenile court proceedings to declare a minor a ward of the court under Section 602 and the probation officer does not cause the affidavit to be taken to the prosecuting attorney pursuant to Section 653 within 21 court days after such application, the applicant may, within 10 court days after receiving notice of the probation officer's decision not to file a petition, apply to the prosecuting attorney to review the decision of the probation officer, and the prosecuting attorney may either affirm the decision of the probation officer or commence juvenile court

proceedings.

(b) When any person has applied to the probation officer or the district attorney, pursuant to Section 653, to commence juvenile court proceedings to declare a minor a dependent child of the court or a ward of the court under Section 601 and the probation officer or district attorney fails to file a petition within 21 court days after making such application, the applicant may, within 10 court days after receiving notice of the probation officer's or district attorney's decision not to file a petition, apply to the juvenile court to review the decision of the probation officer or district attorney, and the court may either affirm the decision of the probation officer or district attorney or order him or her to commence juvenile court proceedings.

(c) Nothing in subdivision (b) shall be construed so as to allow district attorneys to file a petition to make a minor a ward of the court under Section 601, except as specifically allowed by Section 653 in accordance with subdivision (e) of Section 601.3.

SEC. 19. Section 727.5 is added to the Welfare and Institutions Code, to read:

727.5. If a minor is found to be a person described in Section 601, the court may order the minor to perform community service, including, but not limited to, graffiti cleanup, for a total time not to exceed 20 hours over a period not to exceed 30 days, during a time other than his or her hours of school attendance or employment.

SEC. 20. Section 740 of the Welfare and Institutions Code is amended to read:

740. (a) Any minor adjudged to be a ward of the court on the basis that he or she is a person described in Section 602 and who is placed in a community care facility shall be placed in such a facility within his or her county of residence, unless he or she has identifiable needs requiring specialized care which cannot be provided in a local facility, or unless his or her needs dictate physical separation from his or her family.

(b) Within 30 days after the placement of a minor adjudged to be a ward of the court on the basis that he or she is a person described in Section 602 in any community care facility outside the ward's county of residence, the probation officer of the county making the placement, or in the case of a Youth Authority ward, the parole officer in charge of his or her case, shall send written notice of the placement, including the name of the ward, the juvenile record of the ward (including any known prior offenses), and the ward's county of residence, to the probation officer of the county in which the community care facility is located; with regard to this requirement, it is the intention of the Legislature that the probation officer of the county making the placement, or in the case of a Youth Authority ward, the parole officer in charge of his or her case, shall make his or her best efforts to send, or to hand deliver, the notice at the same time the placement is made. When such a placement is terminated, the probation officer of the county making the

placement, or in the case of a Youth Authority ward, the parole officer in charge of his or her case, shall send notice thereof to any person or agency receiving notification of the placement.

(c) A minor, the parent or guardian of any minor, and counsel representing a minor or the parent or guardian of a minor may petition the juvenile court for the review of any placement decision concerning the minor made by the probation officer pursuant to subdivision (a). The petition shall state the petitioner's relationship to the minor and shall set forth in concise language the grounds on which the review is sought. The court shall order that a hearing shall be held on the petition and shall give prior notice, or cause prior notice to be given, to such persons and by such means as prescribed by Section 776, and, in instances in which the means of giving notice is not prescribed by that section, then by such means as the court prescribes.

(e) If a minor is placed in a community care facility out of his or her county of residence and is then arrested and placed in juvenile hall pending a jurisdictional hearing, the county of residence shall pay to the probation department of the county of placement all reasonable costs resulting directly from the minor's stay in the juvenile hall, provided that these costs exceed one hundred dollars ($100).

(e) If, as a result of the hearing in subdivision (d), the minor is remanded back to his or her county of residence, the county of residence shall pay to the probation department of the county of placement, in addition to any payment made pursuant to subdivision (d), all reasonable costs resulting directly from transporting the minor to the county of residency, provided that these costs exceed one hundred dollars ($100).

(f) Claims made by the probation department in the county of placement, to the county of residence, pursuant to subdivisions (d) and (e), shall be paid within 30 days of the submission of these claims and the probation department in the county of placement shall bear the remaining expense.

(g) As used in this section, "community care facility" shall be defined as provided in Section 1502 of the Health and Safety Code.

SEC. 21. Section 827 of the Welfare and Institutions Code is amended to read:

827. (a) Except as provided in Section 828, a petition filed in any juvenile court proceeding, reports of the probation officer, and all other documents filed in any such case or made available to the probation officer in making his or her report, or to the judge, referee or other hearing officer, and thereafter retained by the probation officer, judge, referee, or other hearing officer, may be inspected only by court personnel, the district attorney, the minor who is the subject of the proceeding, his or her parents or guardian, the attorneys for the parties, and such other persons as may be designated by court order of the judge of the juvenile court upon filing a petition therefor. Child protective agencies, as defined in

Section 11165.9 of the Penal Code, also shall be entitled to inspect these documents upon the filing of a declaration under penalty of perjury stating that access to these documents is necessary and relevant in connection with and in the course of a criminal investigation or a proceeding brought to declare a person a dependent child or ward of the juvenile court.

Any records or reports relating to a matter within the jurisdiction of the juvenile court prepared by or released by the court, a probation department, or the county department of social services, any portion of those records or reports, and information relating to the contents of those records or reports, shall not be disseminated by the receiving agencies to any persons or agencies, other than those persons or agencies authorized to receive documents pursuant to this section. Further, any of those records or reports, any portion of those records or reports, and information relating to the contents of those records or reports, shall not be made attachments to any other documents without the prior approval of the presiding judge of the juvenile court, unless they are used in connection with and in the course of a criminal investigation or a proceeding brought to declare a person a dependent child or ward of the juvenile court.

(b) (1) While the Legislature reaffirms its belief that juvenile court records, in general, should be confidential, it is the intent of the Legislature in enacting this subdivision to provide for a limited exception to juvenile court record confidentiality in cases involving serious acts of violence. Further, it is the intent of the Legislature that even in these selected cases dissemination of juvenile court records be as limited as possible, consistent with the need to work with a pupil in an appropriate fashion, and the need to protect potentially vulnerable school staff and other pupils over whom school staff exercise direct supervision and responsibility.

(2) Notwithstanding subdivision (a), written notice that a minor enrolled in a public school in kindergarten or grades 1 to 12, inclusive, has been found by a court of competent jurisdiction to have used, sold, or possessed narcotics or a controlled substance or to have committed any crime listed in paragraphs (1) to (15), inclusive, or (17) to (19), inclusive, of subdivision (b) of Section 707 shall be provided by the court, within seven days, to the superintendent of the school district of attendance, which information shall be expeditiously transmitted to any teacher, counselor, or administrator with direct supervisorial or disciplinary responsibility over the minor who the superintendent or his or her designee, after consultation with the principal at the school of attendance, believes needs this information to work with the pupil in an appropriate fashion, to avoid being needlessly vulnerable or to protect other persons from needless vulnerability. Any information received by a teacher, counselor, or administrator under this subdivision shall be received in confidence for the limited purpose for which it was provided and shall not be further disseminated by the teacher, counselor, or administrator. An intentional violation of the confidentiality

provisions of this section is a misdemeanor punishable by a fine not to exceed five hundred dollars ($500).

(3) If a minor is removed from public school as a result of the court's finding described in subdivision (b) the superintendent shall maintain the information in a confidential file and shall defer transmittal of the information received from the court until the minor is returned to public school. If the minor is returned to a school district other than the one from which the minor came, the parole or probation officer having jurisdiction over the minor shall so notify the superintendent of the last district of attendance who shall transmit the notice received from the court to the superintendent of the new district of attendance.

(c) Each probation report filed with the court concerning a minor whose record is subject to dissemination pursuant to subdivision (b) shall include on the face sheet the school at which the minor is currently enrolled. The county superintendent shall provide the court with a listing of all of the schools within each school district, within the county, along with the name and mailing address of each district superintendent.

(d) Each notice sent by the court pursuant to subdivision (b) shall be stamped with the instruction: "Destroy This Record 12 Months After The Minor Returns To Public School. Unlawful Dissemination of This Information Is A Misdemeanor." No information transmitted by the superintendent pursuant to subdivision (b) shall be transmitted by the superintendent or by any teacher, counselor, or administrator to any other person more than 12 months after receipt of the original notice from the court or more than 12 months after the minor returns to public school, whichever occurs last. Any information received from the court shall be destroyed by school authorities 12 months after its receipt from the court or 12 months after the minor returns to public school, whichever occurs last. At any time after the date by which a record required to be destroyed by this section should have been destroyed, the minor or his or her parent or guardian shall have the right to make a written request to the principal of the school that the minor's school records be reviewed to ensure that the record has been destroyed. Upon completion of any requested review and no later than 30 days after the request for the review was received, the principal or his or her designee shall respond in writing to the written request and either shall confirm that the record has been destroyed or, if the record has not been destroyed, shall explain why destruction has not yet occurred and shall specify the date by which the record will be destroyed.

(e) Except as provided in paragraph (2) of subdivision (b), no liability shall attach to any person who transmits or fails to transmit any notice or information required under subdivision (b).

SEC. 22. The Legislature declares and finds each of the following:

(a) A business establishment which sells or transfers firearms shall comply with Section 51 of the Civil Code that prohibits all arbitrary

discrimination.

(b) However, no law in this state requires a business establishment to sell or transfer a firearm to a person who intends to use the firearm for an unlawful purpose or who is a danger to himself or herself or others or if the refusal to sell or transfer the firearm is based on any other good cause.

SEC. 23. Section 2.5 of this bill incorporates amendments to Section 13968 of the Government Code proposed by both this bill and AB 1395. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2) each bill amends Section 13968 of the Government Code, and (3) this bill is enacted after AB 1395, in which case Section 2 of this bill shall not become operative.

SEC. 24. Section 8 of this bill incorporates amendments to Section 256 of the Welfare and Institutions Code proposed by both this bill and SB 65. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2) each bill amends Section 256 of the Welfare and Institutions Code, and (3) this bill is enacted after SB 65, in which case Section 7 of this bill shall not become operative.

SEC. 25. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 1203

An act to amend Sections 358, 360, 11400, 11401, 11401.1, 16501, 16503, 16504, 16506, 16507, 16507.3, 16507.4, and 16507.6 of, to amend and renumber Sections 301 and 330 of, to amend and repeal Section 300 of, to repeal Article 5 (commencing with Section 16216) of Chapter 3 of Part 4 of Division 9 of, to repeal Sections 16501.2, 16501.3, 16504.1, 16506.1, 16507.1, and 16508.1 of, and to repeal and add Section 16501.1 of, the Welfare and Institutions Code, relating to children, and making an appropriation therefor.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. The Legislature finds and declares that:

(a) The foundation for qualitative child welfare services rests upon preplacement preventive services and out-of-home care services. This system requires first, a written case plan for each child and family designed to achieve protection and care in the most familylike environment possible consistent with the best interest and special needs of the child; second, for those children in out-of-home care, a judicial or administrative review every six months to determine the appropriateness of the placement; and third, for those children who remain in out-of-home care for a period of 18 months, a permanent plan hearing to determine the future status of each child, with a review each 18 months thereafter. The child welfare services program further requires a case plan system based upon casework practice guidelines which promote the best interest of the child and family.

(b) The Legislature further finds and declares that the realignment of health and human services programs in the state offers the opportunity to reemphasize the state's commitment to child welfare services by developing a framework based upon policy guidelines that provide quality services for the state's most endangered children.

(c) Therefore, it is the intent of the Legislature in enacting this act to modify regulatory complexities to allow the provision of quality child welfare services and to minimize unnecessary administrative requirements. It is further the intent of the Legislature to improve the interrelationship of the dependency proceedings under Section 300 of the Welfare and Institutions Code with the requirements of Sections 11400 and 16500 of the Welfare and Institutions Code, and Section 11165 of the Penal Code, by minimizing duplication of effort and underscoring the mutual goals of the child welfare services system and the juvenile court.

SEC. 1.5. Section 300 of the Welfare and Institutions Code, as amended by Section 3 of Chapter 913 of the Statutes of 1989, is amended to read:

300. Any minor who comes within any of the following descriptions is within the jurisdiction of the juvenile court which may adjudge that person to be a dependent child of the court:

(a) The minor has suffered, or there is a substantial risk that the minor will suffer, serious physical harm inflicted nonaccidentally upon the minor by the minor's parent or guardian. For the purposes of this subdivision, a court may find there is a substantial risk of serious future injury based on the manner in which a less serious injury was inflicted, a history of repeated inflictions of injuries on the minor or the minor's siblings, or a combination of these and other

actions by the parent or guardian which indicate the child is at risk of serious physical harm. For purposes of this subdivision, "serious physical harm" does not include reasonable and age-appropriate spanking to the buttocks where there is no evidence of serious physical injury.

(b) The minor has suffered, or there is a substantial risk that the minor will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the minor, or the willful or negligent failure of the minor's parent or guardian to adequately supervise or protect the minor from the conduct of the custodian with whom the minor has been left, or by the willful or negligent failure of the parent or guardian to provide the minor with adequate food, clothing, shelter, or medical treatment, or by the inability of the parent or guardian to provide regular care for the minor due to the parent's or guardian's mental illness, developmental disability, or substance abuse. No minor shall be found to be a person described by this subdivision solely due to the lack of an emergency shelter for the family. Whenever it is alleged that a minor comes within the jurisdiction of the court on the basis of the parent's or guardian's willful failure to provide adequate medical treatment or specific decision to provide spiritual treatment through prayer, the court shall give deference to the parent's or guardian's medical treatment, nontreatment, or spiritual treatment through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination, by an accredited practitioner thereof, and shall not assume jurisdiction unless necessary to protect the minor from suffering serious physical harm or illness. In making its determination, the court shall consider (1) the nature of the treatment proposed by the parent or guardian (2) the risks to the minor posed by the course of treatment or nontreatment proposed by the parent or guardian (3) the risk, if any, of the course of treatment being proposed by the petitioning agency, and (4) the likely success of the courses of treatment or nontreatment proposed by the parent or guardian and agency. The minor shall continue to be a dependent child pursuant to this subdivision only so long as is necessary to protect the minor from risk of suffering serious physical harm or illness.

(c) The minor is suffering serious emotional damage, or is at substantial risk of suffering serious emotional damage, evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, as a result of the conduct of the parent or guardian or who has no parent or guardian capable of providing appropriate care. No minor shall be found to be a person described by this subdivision if the willful failure of the parent or guardian to provide adequate mental health treatment is based on a sincerely held religious belief and if a less intrusive judicial intervention is available.

(d) The minor has been sexually abused, or there is a substantial

risk that the minor will be sexually abused, as defined in Section 11165.1 of the Penal Code, by his or her parent or guardian or a member of his or her household, or the parent or guardian has failed to adequately protect the minor from sexual abuse when the parent or guardian knew or reasonably should have known that the minor was in danger of sexual abuse.

(e) The minor is under the age of five and has suffered severe physical abuse by a parent, or by any person known by the parent, if the parent knew or reasonably should have known that the person was physically abusing the minor. For the purposes of this subdivision, "severe physical abuse" means any of the following: any single act of abuse which causes physical trauma of sufficient severity that, if left untreated, would cause permanent physical disfigurement, permanent physical disability, or death; any single act of sexual abuse which causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness. A minor may not be removed from the physical custody of his or her parent or guardian on the basis of a finding of severe physical abuse unless the probation officer has made an allegation of severe physical abuse pursuant to Section 332.

(f) The minor's parent or guardian has been convicted of causing the death of another child through abuse or neglect.

(g) The minor has been left without any provision for support; the minor's parent has been incarcerated or institutionalized and cannot arrange for the care of the minor; or a relative or other adult custodian with whom the child resides or has been left is unwilling or unable to provide care or support for the child, the whereabouts of the parent is unknown, and reasonable efforts to locate the parent have been unsuccessful.

(h) The minor has been freed for adoption from one or both parents for 12 months by either relinquishment or termination of parental rights or an adoption petition has not been granted.

(i) The minor has been subjected to an act or acts of cruelty by the parent or guardian or a member of his or her household, or the parent or guardian has failed to adequately protect the minor from an act or acts of cruelty when the parent or guardian knew or reasonably should have known that the minor was in danger of being subjected to an act or acts of cruelty.

(j) The minor's sibling has been abused or neglected, as defined in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk that the minor will be abused or neglected, as defined in those subdivisions. The court shall consider the circumstances surrounding the abuse or neglect of the sibling, the age and gender of each child, the nature of the abuse or neglect of the sibling, the mental condition of the parent or guardian, and any other factors the court considers probative in determining whether there is a substantial risk to the minor.

It is the intent of the Legislature in enacting this section to provide maximum protection for children who are currently being physically, sexually, or emotionally abused, being neglected, or being exploited, and to protect children who are at risk of that harm. This protection includes provision of a full array of social and health services to help the child and family and to prevent reabuse of children. That protection shall focus on the preservation of the family whenever possible. Nothing in this section is intended to disrupt the family unnecessarily or to intrude inappropriately into family life, to prohibit the use of reasonable methods of parental discipline, or to prescribe a particular method of parenting. Further, nothing in this section is intended to limit the offering of voluntary services to those families in need of assistance but who do not come within the descriptions of this section. To the extent that savings accrue to the state from child welfare services funding obtained as a result of the enactment of the act that enacted this section, those savings shall be used to promote services which support family maintenance and family reunification plans, such as client transportation, out-of-home respite care, parenting training, and the provision of temporary or emergency in-home caretakers and persons teaching and demonstrating homemaking skills. The Legislature further declares that a physical disability, such as blindness or deafness, is no bar to the raising of happy and well-adjusted children and that a court's determination pursuant to this section shall center upon whether a parent's disability prevents him or her from exercising care and control.

As used in this section "guardian" means the legal guardian of the child.

SEC. 2. Section 300 of the Welfare and Institutions Code, as amended by Section 4 of Chapter 913 of the Statutes of 1989, is repealed.

SEC. 3. Section 301 of the Welfare and Institutions Code is amended and renumbered to read:

302. (a) A juvenile court may assume jurisdiction over a child described in Section 300 regardless of whether the child was in the physical custody of both parents or was in the sole legal or physical custody of only one parent at the time that the events or conditions occurred that brought the child within the jurisdiction of the court.

(b) Unless their parental rights have been terminated, both parents shall be notified of all proceedings involving the child. In any case where the probation officer is required to provide a parent or guardian with notice of a proceeding at which the probation officer intends to present a report, the probation officer shall also provide both parents, whether custodial or noncustodial, or any guardian, or the counsel for the parent or guardian a copy of the report prior to the hearing, either personally or by first-class mail. The probation officer shall not charge any fee for providing a copy of a report required by this subdivision.

(c) When a minor is adjudged a dependent of the juvenile court,

any issues regarding custodial rights between his or her parents shall be determined solely by the juvenile court, as specified in Sections 304, 361.2, and 362.4, so long as the minor remains a dependent of the juvenile court.

SEC. 4. Section 330 of the Welfare and Institutions Code is amended and renumbered to read:

301. (a) In any case in which a probation officer after investigation of an application for petition or other investigation he or she is authorized to make, determines that a minor is within the jurisdiction of the juvenile court or will probably soon be within that jurisdiction, the probation officer may, in lieu of filing a petition or subsequent to dismissal of a petition already filed, and with consent of the minor's parent or guardian, undertake a program of supervision of the minor. If a program of supervision is undertaken, the probation officer shall attempt to ameliorate the situation which brings the minor within, or creates the probability that the minor will be within, the jurisdiction of Section 300 by providing or arranging to contract for all appropriate child welfare services pursuant to Sections 16506 and 16507.3, within the time periods specified in those sections. No further child welfare services shall be provided subsequent to these time limits. If the family has refused to cooperate with the services being provided, the probation officer may file a petition with the juvenile court pursuant to Section 332. Nothing in this section shall be construed to prevent the probation officer from filing a petition pursuant to Section 332 when otherwise authorized by law.

(b) The program of supervision of the minor undertaken pursuant to this section may call for the minor to obtain care and treatment for the misuse of, or addiction to, controlled substances from a county mental health service or other appropriate community agency.

(c) Probation departments in counties designated by the department as pilot projects for in-home care programs, pursuant to Section 18964, may place, and shall designate, a projected number of children to be referred each year in these projects.

SEC. 5. Section 358 of the Welfare and Institutions Code is amended to read:

358. (a) After finding that a minor is a person described in Section 300, the court shall hear evidence on the question of the proper disposition to be made of the minor. Prior to making a finding required by this section, the court may continue the hearing on its own motion, the motion of the parent or guardian, or the motion of the minor, as follows:

(1) If the minor is detained during the continuance, and the probation officer is not alleging that subdivision (b) of Section 361.5 is applicable, the continuance shall not exceed 10 judicial days. The court may make such order for detention of the minor or for the minor's release from detention, during the period of continuance, as is appropriate.

(2) If the minor is not detained during the continuance, the continuance shall not exceed 30 days after the date of the finding pursuant to Section 356. However, the court may, for cause, continue the hearing for an additional 15 days.

(3) If the probation officer is alleging that subdivision (b) of Section 361.5 is applicable, the court shall continue the proceedings for a period not to exceed 30 days. The probation officer shall notify each parent of the content of subdivision (b) of Section 361.5 and shall inform each parent that if the court does not order reunification a permanency planning hearing will be held, and that his or her parental rights may be terminated within the time frames specified by law.

(b) Before determining the appropriate disposition, the court shall receive in evidence the social study of the minor made by the probation officer, any study or evaluation made by a child advocate appointed by the court, and such other relevant and material evidence as may be offered. In any judgment and order of disposition, the court shall specifically state that the social study made by the probation officer and the study or evaluation made by the child advocate appointed by the court, if there be any, has been read and considered by the court in arriving at its judgment and order of disposition. Any social study or report submitted to the court by the probation officer shall include the individual child's case plan developed pursuant to Section 16501.1.

(c) If the court finds that a minor is described by subdivision (h) of Section 300 or that subdivision (b) of Section 361.5 may be applicable, the court shall conduct the dispositional proceeding pursuant to subdivision (c) of Section 361.5.

SEC. 6. Section 360 of the Welfare and Institutions Code is amended to read:

360. After receiving and considering the evidence on the proper disposition of the case, the juvenile court may enter judgment as follows:

(a) If the court finds that the minor is a person described by Section 300, it may, without adjudicating the minor a dependent child of the court, order that services be provided to keep the family together and place the minor and the minor's parent or guardian under the supervision of the probation officer for a time period consistent with Section 301.

(b) If the family subsequently is unable or unwilling to cooperate with the services being provided, the probation officer may file a petition with the juvenile court pursuant to Section 332 alleging that a previous petition has been sustained and that disposition pursuant to subdivision (a) has been ineffective in ameliorating the situation requiring the child welfare services. Upon hearing the petition, the court shall order either that the petition shall be dismissed or that a new disposition hearing shall be held pursuant to subdivision (c).

(c) If the court finds that the minor is a person described by Section 300, it may order and adjudge the minor to be a dependent

child of the court.

SEC. 7. Section 11400 of the Welfare and Institutions Code is amended to read:

11400. For the purposes of this article, the following definitions shall apply:

(a) "Aid to Families with Dependent Children-Foster Care (AFDC-FC)" means the aid provided in behalf of needy children in foster care under the terms of this division.

(b) "Case plan" means a written document which at a minimum specifies the type of home in which the child shall be placed, the appropriateness of the home for meeting the child's needs, the agency's plan for ensuring that the child, the family, and foster parents receive services, and the appropriateness of the services provided to the child, in order to meet the child's needs while in foster care, and to reunify the child with his or her family, or, when reunification is not possible, to facilitate an alternate permanent plan.

(c) "Certified family home" means a family residence certified by a licensed foster family agency and issued a certificate of approval by that agency as meeting licensing standards, and used only by that foster family agency for placements.

(d) "Family home" means the family residency of a licensee in which 24-hour care and supervision are provided for children.

(e) "Foster care" means the 24-hour out-of-home care provided to children whose own families are unable or unwilling to care for them, and who are in need of temporary or long-term substitute parenting.

(f) "Foster family agency" means any individual or organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care who require that level of care as an alternative to a group home. Private foster family agencies shall be organized and operated on a nonprofit basis.

(g) "Group home" means a nondetention privately operated residential home of any capacity that provides services in a group setting to children in need of care and supervision, as required by paragraph (1) of subdivision (a) of Section 1502 of the Health and Safety Code.

(h) "Periodic review" means review of a child's status by the juvenile court or by an administrative review panel, which shall include a determination of the continuing need for placement in foster care, evaluation of the goals for the placement and the progress toward meeting these goals, and development of a target date for the child's return home or establishment of alternative permanent placement.

(i) "Permanency planning hearing" means a hearing conducted by the juvenile court in which the child's future status, including whether the child shall be returned home or another permanent

plan shall be developed, is determined.

(j) "Placement and care" refers to the responsibility for the welfare of a child vested in an agency or organization by virtue of the agency or organization having (1) been delegated care, custody, and control of a child by the juvenile court, (2) taken responsibility, pursuant to a relinquishment or termination of parental rights on a child, (3) taken the responsibility of supervising a child detained by the juvenile court pursuant to Section 319 or 636, or (4) signed a voluntary placement agreement for the child's placement; or to the responsibility designated to an individual by virtue of his or her being appointed the child's legal guardian.

(k) "Preplacement preventive services" means services which are designed to help children remain with their families by preventing or eliminating the need for removal.

(*l*) "Relative" means a person who can be a "caretaker relative" of a dependent child under Section 406 of the Social Security Act.

(m) "Voluntary placement" means an out-of-home placement of a minor by (1) county welfare department after the parents or guardians have requested the assistance of the county welfare department and have signed a voluntary placement agreement; or (2) the county welfare department licensed public or private adoption agency, or the department acting as an adoption agency, after the parents have requested the assistance of either the county welfare department, the licensed public or private adoption agency, or the department acting as an adoption agency for the purpose of adoption planning, and have signed a voluntary placement agreement.

(n) "Voluntary placement agreement" means a written agreement between either the county welfare department, a licensed public or private adoption agency, or the department acting as an adoption agency, and the parents or guardians of a minor which specifies, at a minimum, the following:

(1) The legal status of the child.

(2) The rights and obligations of the parents or guardians, the child, and the agency in which the child is placed.

(o) "Original placement date" means the most recent date on which the court detained a child and ordered an agency to be responsible for supervising the child or the date on which an agency assumed responsibility for a child due to termination of parental rights, relinquishment, or voluntary placement.

SEC. 7.5. Section 11400 of the Welfare and Institutions Code is amended to read:

11400. For the purposes of this article, the following definitions shall apply:

(a) "Aid to Families with Dependent Children-Foster Care (AFDC-FC)" means the aid provided in behalf of needy children in foster care under the terms of this division.

(b) "Case plan" means a written document which at a minimum specifies the type of home in which the child shall be placed, the

appropriateness of the home for meeting the child's needs, the agency's plan for ensuring that the child, the family, and foster parents receive services, and the appropriateness of the services provided to the child, in order to meet the child's needs while in foster care, and to reunify the child with his or her family, or, when reunification is not possible, to facilitate an alternate permanent plan.

(c) "Certified family home" means a family residence certified by a licensed foster family agency and issued a certificate of approval by that agency as meeting licensing standards, and used only by that foster family agency for placements.

(d) "Family home" means the family residency of a licensee in which 24-hour care and supervision are provided for children.

(e) "Small family home" means any residential facility, in the licensee's family residence, which provides 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities.

(f) "Foster care" means the 24-hour out-of-home care provided to children whose own families are unable or unwilling to care for them, and who are in need of temporary or long-term substitute parenting.

(g) "Foster family agency" means any individual or organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care who require that level of care as an alternative to a group home. Private foster family agencies shall be organized and operated on a nonprofit basis.

(h) "Group home" means a nondetention privately operated residential home of any capacity that provides services in a group setting to children in need of care and supervision, as required by paragraph (1) of subdivision (a) of Section 1502 of the Health and Safety Code.

(i) "Periodic review" means review of a child's status by the juvenile court or by an administrative review panel, which shall include a determination of the continuing need for placement in foster care, evaluation of the goals for the placement and the progress toward meeting these goals, and development of a target date for the child's return home or establishment of alternative permanent placement.

(j) "Permanency planning hearing" means a hearing conducted by the juvenile court in which the child's future status, including whether the child shall be returned home or another permanent plan shall be developed, is determined.

(k) "Placement and care" refers to the responsibility for the welfare of a child vested in an agency or organization by virtue of the agency or organization having (1) been delegated care, custody, and control of a child by the juvenile court, (2) taken responsibility,

pursuant to a relinquishment or termination of parental rights on a child, (3) taken the responsibility of supervising a child detained by the juvenile court pursuant to Section 319 or 636, or (4) signed a voluntary placement agreement for the child's placement; or to the responsibility designated to an individual by virtue of his or her being appointed the child's legal guardian.

(*l*) "Preplacement preventive services" means services which are designed to help children remain with their families by preventing or eliminating the need for removal.

(m) "Relative" means a person who can be a "caretaker relative" of a dependent child under Section 406 of the Social Security Act.

(n) "Voluntary placement" means an out-of-home placement of a minor by (1) county welfare department after the parents or guardians have requested the assistance of the county welfare department and have signed a voluntary placement agreement; or (2) the county welfare department licensed public or private adoption agency, or the department acting as an adoption agency, after the parents have requested the assistance of either the county welfare department, the licensed public or private adoption agency, or the department acting as an adoption agency for the purpose of adoption planning, and have signed a voluntary placement agreement.

(o) "Voluntary placement agreement" means a written agreement between either the county welfare department, a licensed public or private adoption agency, or the department acting as an adoption agency, and the parents or guardians of a minor which specifies, at a minimum, the following:

(1) The legal status of the child.

(2) The rights and obligations of the parents or guardians, the child, and the agency in which the child is placed.

(p) "Original placement date" means the most recent date on which the court detained a child and ordered an agency to be responsible for supervising the child or the date on which an agency assumed responsibility for a child due to termination of parental rights, relinquishment, or voluntary placement.

SEC. 8. Section 11401 of the Welfare and Institutions Code is amended to read:

11401. Aid in the form of AFDC-FC shall be provided under this chapter on behalf of any child under the age of 18 years, except as provided in Section 11403, who meets the conditions of subdivision (a), (b), (c), (d), (e) or (f):

(a) The child has been relinquished, for purposes of adoption, to a licensed adoption agency, or the department, or the parental rights of either or both of his or her parents have been terminated after an action under the Civil Code has been brought by a licensed adoption agency or the department, provided that the licensed adoption agency or the department, if responsible for placement and care, provides to such children all services as required by the department to children in foster care.

(b) The child has been removed from the physical custody of his or her parent or guardian as a result of a voluntary placement agreement or a judicial determination that continuance in the home would be contrary to the child's welfare and that, if the child was placed in foster care, reasonable efforts were made, consistent with Chapter 5 (commencing with Section 16500) of Part 4, to prevent or eliminate the need for removal of the child from his or her home and to make it possible for the child to return to his or her home, or, in cases where the first contact with the family occurs during an emergency situation in which the child could not safely remain at home even with reasonable efforts being provided, the child has been removed as a result of a judicial determination that lack of preplacement preventive efforts, as defined in Section 16501.1, was reasonable, and any of the following apply:

(1) The child has been adjudged a dependent child of the court on the grounds that he or she is a person described by Section 300.

(2) The child has been adjudged a ward of the court on the grounds that he or she is a person described by Sections 601 and 602.

(3) The child has been detained under a court order pursuant to Section 319 or 636 which remains in effect.

(c) The child has been voluntarily placed by his or her parent or guardian pursuant to Section 11401.1.

(d) The child is living in the home of a nonrelated legal guardian.

(e) The child has been placed in foster care under the federal Indian Child Welfare Act. Sections 11402, 11404, and 11405 shall not be construed as limiting payments to Indian children, as defined in the federal Indian Child Welfare Act, placed in accordance with that act.

(f) To be eligible for federal financial participation, the child shall meet the conditions of subdivision (b) and have been deprived of parental support or care for any of the reasons set forth in Section 11250. Subject to the approval of the United States Department of Health and Human Services of amendments to the state plan for administering Part E (commencing with Section 670) of Subchapter IV of Chapter 7 of Title 42 of the United States Code to permit federal financial participation in a federal AFDC-FC voluntary program, a child shall also be eligible for federal financial participation if he or she meets the conditions of subdivision (c) and has been deprived of parental support or care for any of the reasons set forth in Section 11250.

SEC. 9. Section 11401.1 of the Welfare and Institutions Code is amended to read:

11401.1. (a) Otherwise eligible children placed voluntarily prior to January 1, 1981, may remain eligible for AFDC-FC payments.

(b) Beginning on January 1, 1982, AFDC-FC payments for children placed voluntarily on or after January 1, 1981, shall be limited to a period of up to six months under conditions specified by departmental regulations, and may be extended an additional six months pursuant to Section 16507.3 and departmental regulations.

This section shall become operative on January 1, 1984.

SEC. 9.5. Article 5 (commencing with Section 16216) of Chapter 3 of Part 4 of Division 9 of the Welfare and Institutions Code is repealed.

SEC. 10. Section 16501 of the Welfare and Institutions Code is amended to read:

16501. (a) As used in this chapter, "child welfare services" means public social services which are directed toward the accomplishment of any or all the following purposes: protecting and promoting the welfare of all children, including handicapped, homeless, dependent, or neglected children; preventing or remedying, or assisting in the solution of problems which may result in, the neglect, abuse, exploitation, or delinquency of children; preventing the unnecessary separation of children from their families by identifying family problems, assisting families in resolving their problems, and preventing breakup of the family where the prevention of child removal is desirable and possible; restoring to their families children who have been removed, by the provision of services to the child and the families; identifying children to be placed in suitable adoptive homes, in cases where restoration to the biological family is not possible or appropriate; and assuring adequate care of children away from their homes, in cases where the child cannot be returned home or cannot be placed for adoption.

"Child welfare services" also means services provided on behalf of children alleged to be the victims of child abuse, neglect, or exploitation. The child welfare services provided on behalf of each child represent a continuum of services, including emergency response services, family maintenance services, family reunification services, and permanent placement services. The individual child's case plan is the guiding principle in the provision of these services. The case plan shall be developed within 30 days of the initial removal of the child or of the in-person response required under subdivision (f) of Section 16501 if the child has not been removed from his or her home, or by the date of the jurisdictional hearing pursuant to Section 356, whichever comes first.

(1) Child welfare services may include, but are not limited to, a range of service-funded activities, including case management, counseling, emergency shelter care, emergency in-home caretakers, temporary in-home caretakers, respite care, therapeutic day services, teaching and demonstrating homemakers, parenting training, substance abuse testing, and transportation. These service-funded activities shall be available to children and their families in all phases of the child welfare program in accordance with the child's case plan and departmental regulations. Funding for services is limited to the amount appropriated in the annual Budget Act and other available county funds.

(2) Service-funded activities to be provided may be determined by each county, based upon individual child and family needs as reflected in the service plan.

(3) As used in this chapter, "emergency shelter care" means emergency shelter provided to children who have been removed pursuant to Section 300 from their parent or parents or their guardian or guardians. The department may establish, by regulation, the time periods for which emergency shelter care shall be funded.

(b) As used in this chapter, "respite care" means temporary care for periods not to exceed 72 hours. This care may be provided to the child's parents or guardians. This care shall not be limited by regulation to care over 24 hours. These services shall not be provided for the purpose of routine, ongoing child care.

(c) The county shall provide child welfare services as needed pursuant to an approved service plan and in accordance with regulations promulgated, in consultation with the counties, by the department. Counties may contract for service-funded activities as defined in paragraph (1) of subdivision (a). Each county shall use available private child welfare resources prior to developing new county-operated resources when the private child welfare resources are of at least equal quality and lesser or equal cost as compared with county-operated resources. Counties shall not contract for needs assessment, client eligibility determination, or any other activity as specified by regulations of the State Department of Social Services.

(d) Nothing in this chapter shall be construed to affect duties which are delegated to probation officers pursuant to Sections 601 and 654.

(e) Any county may utilize volunteer individuals to supplement professional child welfare services by providing ancillary support services in accordance with regulations adopted by the State Department of Social Services.

(f) As used in this chapter, emergency response services consist of a response system providing in-person response, 24 hours a day, seven days a week, to reports of abuse, neglect, or exploitation, as required by Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code for the purpose of investigation pursuant to Section 11166 of the Penal Code and to determine the necessity for providing initial intake services and crisis intervention to maintain the child safely in his or her own home or to protect the safety of the child. County welfare departments shall respond to any report of imminent danger to a child immediately and all other reports within 10 calendar days. An in-person response is not required when the county welfare department, based upon an evaluation of risk, determines that an in-person response is not appropriate. This evaluation includes collateral, contacts, a review of previous referrals, and other relevant information, as indicated.

(g) As used in this chapter, family maintenance services are activities designed to provide in-home protective services to prevent or remedy neglect, abuse, or exploitation, for the purposes of preventing separation of children from their families.

(h) As used in this chapter, family reunification services are activities designed to provide time-limited foster care services to

prevent or remedy neglect, abuse, or exploitation, when the child cannot safely remain at home, and needs temporary foster care, while services are provided to reunite the family.

(i) As used in this chapter, permanent placement services are activities designed to provide an alternate permanent family structure for children who because of abuse, neglect, or exploitation cannot safely remain at home and who are unlikely to ever return home. These services shall be provided on behalf of children for whom there has been a judicial determination of a permanent plan for adoption, legal guardianship, or long-term foster care.

SEC. 11. Section 16501.1 of the Welfare and Institutions Code is repealed.

SEC. 12. Section 16501.1 is added to the Welfare and Institutions Code, to read:

16501.1. (a) The Legislature finds and declares that the foundation and central unifying tool in child welfare services is the case plan.

(b) The Legislature further finds and declares that a case plan ensures that the child receives protection and proper case management, and that services are provided to the parents or other caretakers as appropriate. A case plan shall be based upon the principles of this section and shall document that a preplacement assessment of the service needs of the child and family, and preplacement preventive services, have been provided, and that reasonable efforts to prevent out-of-home placement have been made.

(c) When out-of-home placement is used to attain case plan goals, the decision regarding choice of placement shall be based upon selection of the least restrictive or most familylike setting, selection of the environment best suited to meet the child's special needs and best interests, or both. The selection shall consider, in order of priority, placement with relatives, tribal members, and foster family, group care, and residential treatment pursuant to Section 275 of the Civil Code.

(d) A written case plan shall be completed within 30 days of the initial removal of the child or of the in-person response required under subdivision (f) of Section 16501 if the child has not been removed from his or her home, or by the date of the jurisdictional hearing pursuant to Section 356, whichever comes first. The case plan shall be updated, as the service needs of the child and family dictate. At a minimum, the case plan shall be updated in conjunction with each status review hearing conducted pursuant to Section 366.21, and the hearing conducted pursuant to Section 366.25 or 366.26, but no less frequently than once every six months.

(e) The child welfare services case plan shall be comprehensive enough to meet the juvenile court dependency proceedings requirements pursuant to Article 6 (commencing with Section 300) of Chapter 2 of Part 1 of Division 2.

(f) The case plan shall be developed as follows:

(1) The case plan shall be based upon an assessment of the circumstances which required child welfare services intervention.

(2) The case plan shall identify specific goals, and the appropriateness of the planned services in meeting those goals.

(3) The case plan shall identify the original allegations of abuse or neglect, as defined in Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code, or the conditions cited as the basis for declaring the child a dependent of the court pursuant to Section 300, or all of these, and the other precipitating incidents which led to child welfare services intervention.

(4) The case plan shall include a description of the schedule of the social worker contacts with the child and the family or other caretakers. The frequency of these contacts shall be in accordance with regulations adopted by the State Department of Social Services.

(5) When out-of-home services are used, the frequency of contact between the natural parents or legal guardians and the child shall be specified in the case plan. The frequency of those contacts shall reflect overall case goals, and consider other principles outlined in this section.

(6) Parents and legal guardians shall have an opportunity to review the case plan, sign it whenever possible, and then shall receive a copy of the plan. In any voluntary service or placement agreement, the parents or legal guardians shall be required to review and sign the case plan. Whenever possible, parents and legal guardians shall participate in the development of the case plan.

(7) The case plan shall be included in the court report and shall be considered by the court at the initial hearing and each review hearing. Modifications to the case plan made during the period between review hearings need not be approved by the court if the casework supervisor for that case determines that the modifications further the goals of the plan.

SEC. 13. Section 16501.2 of the Welfare and Institutions Code is repealed.

SEC. 14. Section 16501.3 of the Welfare and Institutions Code is repealed.

SEC. 15. Section 16503 of the Welfare and Institutions Code is amended to read:

16503. (a) Subsequent to completion of the hearing conducted pursuant to Section 366.25 or 366.26, the agency responsible for placement and care of a minor, as defined in subdivision (e) of Section 11400, shall ensure that a child in foster care shall receive administrative reviews periodically but no less frequently than once every six months. The administrative review shall determine the appropriateness of the placement, the continuing appropriateness and extent of compliance with the permanent plan for the child, the extent of compliance with the case plan, and adequacy of services provided to the child.

(b) The term "administrative review" means a review open to the participation of the parents of a child in foster care conducted by a

panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to either the child or the parents who are the subject of the review.

(c) The department shall develop and implement regulations establishing processes, procedures and standards for the conduct of administrative reviews that conform to Section 675.6 of Title 42 of the United States Code.

(d) The requirements of this section shall not be interpreted as requiring duplicate concurrent court and administrative reviews.

SEC. 16. Section 16504 of the Welfare and Institutions Code is amended to read:

16504. Any child reported to the county welfare department to be endangered by abuse, neglect, or exploitation shall be eligible for initial intake and evaluation of risk services. Each county welfare department shall maintain and operate a 24-hour response system. An immediate in-person response shall be made by a county welfare department social worker in emergency situations in accordance with regulations of the department. The person making any initial response to a request for child welfare services shall consider providing appropriate social services to maintain the child safely in his or her own home. However, an in-person response is not required when the county welfare department, based upon an evaluation of risk, determines that an in-person response is not appropriate. An evaluation of risk includes collateral contacts, a review of previous referrals, and other relevant information, as indicated.

This section shall become operative on October 1, 1983, unless a later enacted statute extends or deletes that date.

SEC. 17. Section 16504.1 of the Welfare and Institutions Code is repealed.

SEC. 18. Section 16506 of the Welfare and Institutions Code is amended to read:

16506. Family maintenance services shall be provided or arranged for by county welfare department staff in order to maintain the child in his or her own home. These services shall be limited to six months, and may be extended for one six-month period if it can be shown that the objectives of the service plan can be achieved within the extended time periods. Family maintenance services shall be available without regard to income and shall only be provided to any of the following:

(a) Families whose child has been adjudicated a dependent of the court under Section 300, and where the court has ordered the county welfare department to supervise while the child remains in the child's home.

(b) Families whose child is in potential danger of abuse, neglect, or exploitation, who are willing to accept services and participate in corrective efforts, and where it is safe for the child to remain in the child's home only with the provision of services.

(c) Families in which the child is in the care of a previously noncustodial parent, under the supervision of the juvenile court.

SEC. 19. Section 16506.1 of the Welfare and Institutions Code is repealed.

SEC. 20. Section 16507 of the Welfare and Institutions Code is amended to read:

16507. (a) Family reunification services shall be provided or arranged for by county welfare department staff in order to reunite the child separated from his or her parent because of abuse, neglect, or exploitation. These services shall not exceed 12 months except as provided in subdivision (a) of Section 361.5 and subdivision (c) of Section 366.3. Family reunification services shall be available without regard to income to families whose child has been adjudicated or is in the process of being adjudicated a dependent child of the court under the provisions of Section 300. Family reunification services shall include a plan for visitation of the child by his or her grandparents, where the visitation is in the best interests of the child and will serve to maintain and strengthen the family relationships of the child.

(b) Family reunification services shall only be provided when a child has been placed in out-of-home care, or is in the care of a previously noncustodial parent under the supervision of the juvenile court.

(c) When a minor has been placed in foster care with a nonparent, family reunification services may be provided to one or both parents.

SEC. 21. Section 16507.1 of the Welfare and Institutions Code is repealed.

SEC. 22. Section 16507.3 of the Welfare and Institutions Code is amended to read:

16507.3. (a) Beginning on October 1, 1982, child welfare services for children placed voluntarily after January 1, 1982, shall be limited to a period not to exceed six months. Subject to the availability of federal funding, voluntary placement services for federally eligible children may be extended for an additional six months, for a total period not to exceed 12 months for either of the following:

(1) Families who have a custodial parent or guardian in residential substance abuse treatment who is demonstrating progress that indicates the problems warranting the initial placement are likely to be resolved within the extended time period.

(2) Families whose minor child is seriously emotionally disturbed, who requires placement in a residential treatment facility, who otherwise would be likely to be found to fit the description in subdivision (c) of Section 300, and who reasonably may be expected to be returned home within the extended time period.

(b) Whenever a seriously emotionally disturbed child as described in paragraph (2) of subdivision (a) is initially voluntarily placed, the initial placement shall be made pursuant to the approval of an interagency administrative review board as described in paragraph (4) of subdivision (a) of Section 16507.6.

(c) The extension of voluntary placement services for an additional six months shall be subject to the approval of an

administrative review board pursuant to paragraphs (4) and (5) of subdivision (a) of Section 16507.6. The extension of voluntary placement services is contingent upon the receipt of federal funding. Any administrative and foster care costs that exceed the amount of federal reimbursement shall be paid solely with county funds.

(d) An otherwise eligible child placed voluntarily prior to January 1, 1982, may remain eligible for child welfare services without regard to the length of time in placement until April 1, 1984. Beginning on October 1, 1982, such a child shall receive administrative review pursuant to the requirements of Section 16503.

SEC. 23. Section 16507.4 of the Welfare and Institutions Code is amended to read:

16507.4. (a) Notwithstanding any other provisions of this chapter, voluntary family reunification services shall be provided without fee to families who qualify, or would qualify if application had been made therefor, as recipients of public assistance under the Aid to Families with Dependent Children program. If the family is not qualified for such aid, voluntary family reunification services may be utilized, provided that the county seeks reimbursement from the parent or guardian on a statewide sliding scale according to income as determined by the State Department of Social Services and approved by the Department of Finance.

(b) An out-of-home placement of a minor without adjudication by the juvenile court may occur only when both of the following conditions exist:

(1) There is a mutual decision between the child's parent or guardian and the county welfare department in accordance with regulations promulgated by the State Department of Social Services.

(2) There is a written agreement between the county welfare department and the parent or guardian specifying the terms of the voluntary placement. The State Department of Social Services shall develop a form for voluntary placement agreements which shall be used by all counties. The form shall indicate that foster care under the Aid to Families with Dependent Children program is available to such children.

(c) In the case of a voluntary placement pending relinquishment, a county welfare department shall have the option of delegating to a licensed private adoption agency the responsibility for placement by the county welfare department. If such a delegation occurs, the voluntary placement agreement shall be signed by the county welfare department, the child's parent or guardian, and the licensed private adoption agency.

(d) The State Department of Social Services shall amend its plan pursuant to Part E (commencing with Section 670) of Subchapter IV of Chapter 7 of Title 42 of the United States Code in order to conform to mandates of Public Law 96-272 for federal financial participation in voluntary placements.

SEC. 24. Section 16507.6 of the Welfare and Institutions Code is amended to read:

16507.6. (a) If a minor has been voluntarily placed with the county welfare department subsequent to January 1, 1982, for out-of-home placement by his or her parents or guardians pursuant to this chapter and the minor has remained out of their physical custody for six consecutive months, the department shall do one of the following:

(1) Return the minor to the physical custody of his or her parents or guardians.

(2) Refer the minor to a licensed adoption agency for consideration of adoptive planning and receipt of a permanent relinquishment of care and custody rights from the parents pursuant to Section 222.10 of the Civil Code.

(3) Apply for a petition pursuant to Section 332 and file the petition with the juvenile court to have the minor declared a dependent child of the court under Section 300.

(4) Refer the minor placed pursuant to paragraph (2) of subdivision (a) of Section 16507.3 to an interagency administrative review board as may be required in federal regulations. One member of the board shall be a licensed mental health practitioner. The review board shall review the appropriateness and continued necessity of six additional months of voluntary placement, the extent of the compliance with the voluntary placement plan, and the adequacy of services to the family and child. If the minor cannot be returned home by the 12th month of voluntary placement services, the department shall proceed pursuant to paragraph (2) or (3).

(5) Refer the minor placed pursuant to paragraph (1) of subdivision (a) of Section 16507.3 to an administrative review board as may be required in federal regulations and as described in subdivision (b) of Section 16503. If the minor cannot be returned home by the 12th month of voluntary placement services, the department shall proceed as described in paragraph (1) or (2).

(b) For those children placed voluntarily prior to January 1, 1981, the six-month consecutive time period for provision of child welfare services shall commence October 1, 1982.

SEC. 25. Section 16508.1 of the Welfare and Institutions Code is repealed.

SEC. 26. The State Department of Social Services shall adopt emergency regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code to implement this act. The adoption of regulations pursuant to this section in order to implement this act shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, or safety. The regulations shall become effective immediately upon filing with the Secretary of State. The regulations shall not remain in effect more than 120 days unless the adopting agency complies with all of the provisions of Chapter 3.5 (commencing with Section 11340), as required by subdivision (e) of Section 11346.1 of the Government Code.

SEC. 27. (a) The Legislature declares that the next step in

improving child welfare services in California requires a review of the expansion of voluntary alternatives to juvenile court supervision. The Legislature finds that California has made significant progress in emphasizing family preservation services as alternatives to out-of-home foster care placement of children. Section 16506 of the Welfare and Institutions Code provides for voluntary family maintenance services. Section 17507.3 provides for voluntary family reunification services. Section 11401 will provide federal financial participation for voluntary placement agreements.

(b) The Legislative Analyst's Office shall conduct a review with the input of the State Department of Social Services, the County Welfare Directors Association, and the Judicial Council to determine the following:

(1) The policy benefits of expanding voluntary services.

(2) The cost-effectiveness of expanding short-term voluntary services as compared to long-term foster care placement.

(3) The potential benefits of linking voluntary services into family preservation services.

(4) What statutory changes are necessary to accomplish these changes in voluntary services.

(c) The Legislative Analyst shall report on this review at Senate Budget and Fiscal Review Committee and Assembly Ways and Means Committee budget hearings on the 1992–93 proposed budget.

SEC. 28. Section 7.5 of this bill incorporates amendments to Section 11400 of the Welfare and Institutions Code proposed by both this bill and AB 760. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 11400 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 760, in which case Section 7 of this bill shall not become operative.

SEC. 29. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1204

An act to add and repeal Section 745.5 of the Public Utilities Code, relating to public utilities.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. The Legislature finds and declares the following:

(a) The increased use of natural gas as a transportation fuel can provide significant supplies of clean, safe, and competitively priced fuels that not only can improve air quality, but also reduce dependence on foreign energy supplies.

(b) Natural gas is one of the cleanest-burning vehicle fuels available, is abundant in supply, superior in price to gasoline and diesel fuel, and domestically available.

(c) A high quality, reliable, and cost competitive natural gas vehicle manufacturing, conversion, maintenance, and public fueling infrastructure must be built to sustain a market for natural gas vehicles.

(d) Utility participation in the construction and operation of compressed natural gas public refueling stations is needed to promote competition with oil companies and others selling compressed natural gas as a vehicle fuel and to help develop a market for natural gas vehicles.

(e) There are long-term benefits to natural gas utility ratepayers from the sale of natural gas for use as a transportation fuel, and that it should be the policy of the Public Utilities Commission to support utility natural gas vehicle conversion, maintenance, and fueling demonstration programs.

SEC. 2. Section 745.5 is added to the Public Utilities Code, to read:

745.5. (a) The commission may authorize natural gas utilities to construct and maintain compressed natural gas refueling stations to be owned and operated by the utility, or to be transferred to nonutility operators.

(b) The commission may authorize natural gas utilities to support the construction and maintenance of compressed natural gas vehicle conversion and maintenance facilities.

(c) The commission may authorize natural gas utilities to provide incentives for conversion of motor vehicles to compressed natural gas fueled vehicles, and incentives to promote the purchase of factory-equipped compressed natural gas fueled vehicles.

(d) As appropriate, the commission may authorize natural gas utilities to recover through rates, either by expensing or capitalizing, or both, the reasonable costs associated with the projects specified in subdivisions (a), (b), and (c).

(e) Any decision of the commission which authorizes natural gas utilities to undertake the demonstration programs specified in subdivisions (a), (b), and (c), shall ensure that the costs and expenses of those programs are not passed on to ratepayers unless the commission finds and determines that those programs are substantially in the ratepayers' long-term interests. The decision of the commission shall also ensure that natural gas utilities do not unfairly compete with nonutility enterprises.

(f) This section shall remain in effect only until January 1, 1997, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1997, deletes or extends that date.

CHAPTER 1205

An act to add Section 39143.5 to the Education Code, to add Section 11008.19 to, and to add Chapter 12.9 (commencing with Section 18986.40) to Part 6 of Division 9 of, the Welfare and Institutions Code, relating to youth, and making an appropriation therefor.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. (a) It is the intent of the Legislature in enacting this act to encourage local communities to provide an integrated system of services to children and their families who need extra assistance to succeed in school and become productive citizens. Recognizing the economic and social costs of school failure, it is further the intent of the Legislature to encourage representatives from local education agencies, local government, private community agencies, and businesses to come together to utilize their resources and skills in a coordinated effort to strengthen the child, the family, and thereby, the community.

(b) However, the Legislature recognizes that implementation of integrated children's services programs is often impeded by overlapping or conflicting state and local statutes, regulations, and procedures. Therefore, it is also the intent of the Legislature to streamline requirements which may unnecessarily delay establishment of these programs, without compromising the protection, privacy, and health of the children to be served.

SEC. 2. Section 39143.5 is added to the Education Code, to read:

39143.5. Notwithstanding any other provision of law, any school-based health care facility which is established through agreements with local governments and school districts as part of an integrated children's services program pursuant to Chapter 12.9 (commencing with Section 18986.40) of Part 6 of Division 9 of the Welfare and Institutions Code, is located on school property, and

which meets all the requirements of the Uniform Building Code and has been approved by the building department of the appropriate local jurisdiction, as well as those of the appropriate local jurisdiction, shall not be required to obtain approval of plans by the Department of General Services pursuant to Section 39143.

SEC. 3. Section 11008.19 is added to the Welfare and Institutions Code, to read:

11008.19. (a) (1) To the degree child care and development services administered by the State Department of Education pursuant to Chapter 2 (commencing with Section 8200) of Part 6 of the Education Code are used to serve families receiving aid to families with dependent children which are eligible for child care under the AFDC program, the department and the State Department of Education, in consultation with the county welfare departments, shall establish a system for documenting child care usage by this population so the state can claim the maximum amount to which it is entitled under Title IV-A of the Social Security Act, contained in Part A (commencing with Section 601) of Subchapter 4 of Chapter 7 of Title 42 of the United States Code.

(2) To the extent permitted by federal law, on July 1, 1992, and each year thereafter, the department and the State Department of Education shall coordinate their efforts and claim federal financial participation pursuant to Title IV-A of the Social Security Act.

(3) Upon the approval of the Superintendent of Public Instruction, the department, and the State Department of Education shall enter into an interagency agreement to transfer Title IV-A funds from the department to the State Department of Education and to ensure that all federal requirements are met in carrying out the program made possible by the receipt of Title IV-A funds.

(4) The system established pursuant to paragraph (1) shall be implemented only to the extent that its implementation does not result in an overall increase in expenditures from this General Fund.

(b) (1) Title IV-A funds received pursuant to paragraph (1) of subdivision (a) shall be used to expand child care and development services in accordance with the interagency agreement required by paragraph (3) of subdivision (a).

(2) In no case shall Title IV-A funds received pursuant to this section be used to supplant existing state funds and cause the state to violate the maintenance of effort requirements for the federal Child Care and Development Block Grant and the Title IV-A "at-risk" programs. Funds made available pursuant to subdivision (a) shall be expended by the departments to support the following:

(A) Any additional administrative costs associated with documenting and claiming federal reimbursement incurred by the department, the State Department of Education, county welfare offices, and child care and development services contractors.

(B) Expanded child care and development services to families receiving AFDC benefits.

(c) (1) The Superintendent of Public Instruction, the Secretary

of Health and Welfare, and the Secretary for Child Development and Education, in consultation with representatives from child care and development programs, county welfare departments, legislative staff, and representatives from the Department of Finance and the office of the Legislative Analyst, shall investigate and develop a report concerning the feasibility of consolidating all child care and development services to provide equal access to services established by federal regulations, including issues associated with the AFDC child care disregard.

(2) The purpose of the report required by paragraph (1) shall be to develop a comprehensive, seamless program that maximizes parental choice.

(3) The Superintendent of Public Instruction, the Secretary of Health and Welfare, and the Secretary for Child Development and Education shall submit their report, including their findings and recommendations, to the appropriate policy and fiscal committees of the Legislature by January 30, 1993.

(d) (1) Notwithstanding Section 8278 of the Education Code and Item 6110-196-001 of the Budget Act of 1991, the Superintendent of Public Instruction may authorize the expenditure of not more than one million dollars ($1,000,000) in child care carryover funds by the State Department of Education and the State Department of Social Services, through an interagency agreement, for the purposes of implementing the program specified in this section in the 1991–92 and 1992–93 fiscal years.

(2) Prior to making the authorization under paragraph (1), the Superintendent of Public Instruction shall notify the appropriate policy and fiscal committees of the Legislature of the amounts to be expended pursuant to this subdivision.

(3) Funds which may be expended pursuant to this subdivision shall be expended for the purpose of supporting administrative costs associated with claiming federal reimbursement for families with dependent children receiving services pursuant to Chapter 2 (commencing with Section 8200) of Part 6 of the Education Code. In the 1993–94 fiscal year and subsequent fiscal years, state administrative funds for both departments shall be appropriated in the Budget Act pursuant to subdivision (b).

(e) For purposes of this section "Title IV-A funds" means federal money received pursuant to Part A (commencing with Section 601) of Subchapter 4 of Chapter 7 of Title 42 of the United States Code.

SEC. 4. Chapter 12.9 (commencing with Section 18986.40) is added to Part 6 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 12.9. INTEGRATED CHILDREN'S SERVICES PROGRAMS

18986.40. (a) For the purposes of this chapter, "integrated children's services programs" means programs established by county governments, local education agencies, or consortia of public and

private agencies, to jointly provide two or more of the following services to children or their families, or both:

(1) Educational services for children at risk of dropping out, or who need additional educational services to be successful academically.

(2) Health care.

(3) Mental health services.

(4) Substance abuse prevention and treatment.

(5) Child abuse prevention, identification, and treatment.

(6) Nutrition services.

(7) Child care and development services.

(8) Juvenile justice services.

(9) Child welfare services.

(10) Early intervention and prevention services.

(11) Any other service which will enhance the health, development, and well-being of children and their families.

(b) For the purposes of this chapter, "children's multidisciplinary services team" means a team of two or more persons trained and qualified to provide one or more of the services listed in subdivision (a), who are assigned the responsibility for identifying the educational, health, or social service needs of a child and his or her family, and for developing a plan to address those needs.

18986.45. (a) Notwithstanding any provision of state law governing the disclosure of information and records, persons who are trained, qualified, and assigned by their respective agencies to serve on children's multidisciplinary services teams within integrated children's services programs may disclose to one another information and records on a child which are relevant to the treatment and services available to that child through the program. This disclosure may take place only after the team has received a form permitting release of information on the child signed by the child's parent, guardian, or legal representative, including the court which has jurisdiction over those children who are wards of the court. Information exchanged by members of the team shall be limited to the information necessary to formulate a client's plan and deliver services.

(b) Every member of the children's multidisciplinary services team who receives information on children served in the integrated children's services program shall be under the same obligations and subject to the same confidentiality penalties as the person disclosing or providing that information. The information obtained shall be maintained in a manner that ensures the maximum protection of privacy and confidentiality rights.

(c) This section shall not be construed to restrict guarantees of confidentiality provided under federal law.

CHAPTER 1206

An act to amend Sections 1360.1 , 1542, and 10005 of the Financial Code, to amend Sections 16430, 16522, and 53651 of the Government Code, and to amend Section 1192.1 of the Insurance Code, relating to investments.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 1360.1 of the Financial Code is amended to read:

1360.1. In bonds, notes or other obligations issued by the Federal Financing Bank, the United States Postal Service, or issued or assumed by the International Bank for Reconstruction and Development, the Tennessee Valley Authority, the Inter-American Development Bank, the Government Development Bank for Puerto Rico, the Asian Development Bank, the International Finance Corporation, or the African Development Bank.

SEC. 2. Section 1542 of the Financial Code is amended to read:

1542. Security deposited with the State Treasurer by trust companies pursuant to Section 1540 or 1541 shall consist of the following:

(a) Bonds or other interest-bearing notes or obligations of the United States or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Bonds of the State of California or those for which the faith and credit of the State of California are pledged for the payment of principal and interest or in registered warrants of the State of California.

(c) Bonds and revenue securities of any city, county, city and county, political subdivision, public corporation, or district of the State of California (herein referred to generally as "public corporations"), and of any department, board, agency, or authority of any such public corporation, which qualify as an investment for the funds of commercial banks under the provisions of Article 4 (commencing with Section 1335) of Chapter 10 of this division.

(d) Bonds of any state of the United States which qualify as an investment for the funds of commercial banks under the provisions of Article 4 (commencing with Section 1335) of Chapter 10 of this division.

(e) Loans secured by a first lien on real property and otherwise complying with the provisions of subdivision (a) of Section 1227.

(f) Obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the International Finance Corporation, or the African Development

Bank.

SEC. 3. Section 10005 of the Financial Code, as amended by Section 1 of Chapter 880 of the Statutes of 1989, is amended to read:

10005. For the purposes of this article and any other law of this state prohibiting, limiting, or regulating the doing of business or the selling, taking, or solicitation of savings accounts in this state by foreign savings associations or foreign corporations, any federally insured foreign savings association subject to state or federal supervision, which by law is subject to periodic examination by that supervisory authority and to a requirement of periodic audit, and any broker-dealer registered in accordance with the requirements of the Securities Exchange Act of 1934 and the Corporate Securities Law of 1968, and any partner, officer, director, branch manager, or person performing similar functions, and employees of that broker-dealer, shall not be considered to be doing business or selling, taking, or soliciting savings accounts in this state by reason of engaging in the following:

(a) (1) Any of the activities specified in subdivision (d) of Section 191 of the Corporations Code, or (2) the advertising or solicitation of savings accounts in this state by a federally insured foreign savings association through the media of the mail, radio, television, magazines, newspapers, or any other media that are published or circulated within this state, except through or as a result of telemarketing, provided that the advertising or solicitation as a whole is accurate and does not create a misleading impression even though statements considered separately are literally accurate. A federally insured foreign savings association shall not sell, take or solicit savings accounts through telemarketing by use of the telephone or telephone transceiving equipment, or through the use of an automatic dial-announcing device as defined in Section 2871 of the Public Utilities Code.

(b) The offering by a registered broker-dealer of, or the placement by a registered broker-dealer of a customer's funds into, a savings account at a federally insured foreign savings association chartered under the laws of a state in which broker-dealers make available savings accounts of associations chartered under the laws of this state, provided that (1) any advertising, offering material, or solicitation as a whole is accurate and does not create a misleading impression even though statements considered separately are literally accurate and (2) the savings accounts of the federally insured foreign savings association are rated "investment grade" by either Standard & Poor's Corporation or Moody's Investment Service based upon the foreign savings association's ability to repay the savings accounts independent of federal deposit insurance benefits.

(c) This section shall be repealed on January 1, 1994.

SEC. 4. Section 10005 of the Financial Code, as added by Section 2 of Chapter 880 of the Statutes of 1989, is amended to read:

10005. (a) For the purposes of this article and any other law of

this state prohibiting, limiting, or regulating the doing of business in this state by foreign savings associations or foreign corporations, any foreign savings association subject to state or federal supervision, which by law is subject to periodic examination by that supervisory authority and to a requirement of periodic audit, shall not be considered to be doing business in this state by reason of engaging in the following:

(1) Any of the activities specified in subdivision (d) of Section 191 of the Corporations Code.

(2) The advertising or solicitation of savings accounts in this state through the media of the mail, radio, television, magazines, newspapers, or any other media that are published or circulated within this state, provided that the advertising or solicitation as a whole is accurate and does not create a misleading impression even though statements considered separately are literally accurate.

(b) This section shall become operative on January 1, 1994.

SEC. 5. Section 16430 of the Government Code is amended to read:

16430. Eligible securities for the investment of surplus moneys shall be:

(a) Bonds or interest-bearing notes or obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Bonds or interest-bearing notes on obligations that are guaranteed as to principal and interest by a federal agency of the United States.

(c) Bonds of this state, or those for which the faith and credit of this state are pledged for the payment of principal and interest.

(d) Bonds or warrants, including, but not limited to, revenue warrants, of any county, city, metropolitan water district, California water district, California water storage district, irrigation district in the State of California, municipal utility district, or school district of this state.

(e) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, in debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, in bonds or debentures of the Federal Home Loan Bank Board established under the Federal Home Loan Bank Act, in stock, bonds, debentures and other obligations of the Federal National Mortgage Association established under the National Housing Act as amended, and in the bonds of any federal home loan bank established under said act, obligations of the Federal Home Loan Mortgage Corporation, and in bonds, notes, and other obligations issued by the Tennessee Valley Authority under the Tennessee Valley Authority Act as amended.

(f) Commercial paper of "prime" quality as defined by a

nationally recognized organization which rates such securities. Eligible paper is further limited to issuing corporations: (1) organized and operating within the United States; (2) having total assets in excess of five hundred million dollars ($500,000,000); and (3) approved by the Pooled Money Investment Board. Purchases of eligible commercial paper may not exceed 180 days' maturity, represent more than 10 percent of the outstanding paper of an issuing corporation, nor exceed 30 percent of the resources of an investment program. At the request of the Pooled Money Investment Board, such investment shall be secured by the issuer by depositing with the Treasurer securities authorized by Section 53651 of a market value at least 10 percent in excess of the amount of the state's investment.

(g) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System.

(h) Negotiable certificates of deposits issued by a nationally or state-chartered bank or savings and loan association or by a state-licensed branch of a foreign bank. For the purposes of this section, negotiable certificates of deposits do not come within the provisions of Chapter 4 (commencing with Section 16500) and Chapter 4.5 (commencing with Section 16600).

(i) The portion of bank loans and obligations guaranteed by the United States Small Business Administration or the United States Farmers Home Administration.

(j) Student loan notes insured under the Guaranteed Student Loan Program established pursuant to the Higher Education Act of 1965, as amended (20 U.S.C. 1001, et seq.) and eligible for resale to the Student Loan Marketing Association established pursuant to Section 133 of the Education Amendments of 1972, as amended (20 U.S.C. 1087-2).

(k) Obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the International Finance Corporation, or the Government Development Bank of Puerto Rico.

(*l*) Bonds, debentures, and notes issued by corporations organized and operating within the United States. Securities eligible for investment under this subdivision shall be within the top three ratings of a nationally recognized rating service.

SEC. 6. Section 16522 of the Government Code is amended to read:

16522. The following securities may be received as security for demand and time deposits:

(a) Bonds, notes, or other obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest, including the guaranteed portions of small business administration loans, so long as such loans are obligations for which the faith and credit of the United States are

pledged for the payment of principal and interest.

(b) Notes or bonds or any obligations of a local public agency (as defined in the United States Housing Act of 1949) or any obligations of a public housing agency (as defined in the United States Housing Act of 1937) for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Bonds of this state or of any county, city, town, metropolitan water district, municipal utility district, municipal water district, bridge and highway district, flood control district, school district, water district, water conservation district or irrigation district within this state, and, in addition, revenue or tax anticipation notes, and revenue bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by this state, or such local agency or district, or by a department, board, agency, or authority thereof.

(d) Registered warrants of this state.

(e) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by the United States Postal Service, federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, consolidated obligations of the Federal Home Loan Banks established under the Federal Home Loan Bank Act, bonds, debentures and other obligations of the Federal National Mortgage Association and of the Government National Mortgage Association established under the National Housing Act as amended, in the bonds of any federal home loan bank established under said act, bonds, debentures, and other obligations of the Federal Home Loan Mortgage Corporation established under the Emergency Home Finance Act of 1970, and in bonds, notes, and other obligations issued by the Tennessee Valley Authority under the Tennessee Valley Authority Act, as amended.

(f) Bonds and notes of the California Housing Finance Agency issued pursuant to Chapter 7 (commencing with Section 41700) of Part 3 of Division 31 of the Health and Safety Code.

(g) Promissory notes secured by first mortgages and first trust deeds upon residential real property located in California, provided that:

(1) Notwithstanding Section 16521, the promissory notes shall at all times be in an amount in value at least 50 percent in excess of the amount deposited with the bank;

(2) The Treasurer issues regulations, establishes procedures for determining the value of the promissory notes and develops standards necessary to protect the security of the deposits so collateralized;

(3) The depository may exercise, enforce, or waive any right or power granted to it by promissory note, mortgage, or deed of trust;

and

(4) The following may not be used as security for deposits:

(i) Any promissory note on which any payment is more than 90 days past due,

(ii) Any promissory note secured by a mortgage or deed of trust as to which there is a lien prior to the mortgage or deed of trust, or

(iii) Any promissory note secured by a mortgage or deed of trust as to which a notice of default has been recorded pursuant to Section 2924 of the Civil Code or an action has been commenced pursuant to Section 725a of the Code of Civil Procedure.

(h) Bonds issued by the State of Israel.

(i) Obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the International Finance Corporation, or the Government Development Bank of Puerto Rico.

(j) Any municipal securities, as defined by Section 3(a) (29) of the Securities Exchange Act of June 6, 1934, (15 U.S.C. 78, as amended), which are issued by this state or any local agency thereof.

SEC. 7. Section 53651 of the Government Code is amended to read:

53651. Eligible securities are any of the following:

(a) United States Treasury notes, bonds, bills or certificates of indebtedness, or obligations for which the faith and credit of the United States are pledged for the payment of principal and interest, including the guaranteed portions of small business administration loans, so long as the loans are obligations for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Notes or bonds or any obligations of a local public agency (as defined in the United States Housing Act of 1949) or any obligations of a public housing agency (as defined in the United States Housing Act of 1937) for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Bonds of this state or of any local agency or district of the State of California having the power, without limit as to rate or amount, to levy taxes or assessments to pay the principal and interest of the bonds upon all property within its boundaries subject to taxation or assessment by the local agency or district, and in addition, limited obligation bonds pursuant to Article 4 (commencing with Section 50665) of Chapter 3 of Division 1, senior obligation bonds pursuant to Article 5 (commencing with Section 53387) of Chapter 2.7, and revenue bonds and other obligations payable solely out of the revenues from a revenue-producing property owned, controlled or operated by the state, local agency or district or by a department, board, agency or authority thereof.

(d) Bonds of any public housing agency (as defined in the United States Housing Act of 1937, as amended) as are secured by a pledge of annual contributions under an annual contribution contract

between the public housing agency and the Public Housing Administration if such contract shall contain the covenant by the Public Housing Administration which is authorized by subsection (b) of Section 22 of the United States Housing Act of 1937, as amended, and if the maximum sum and the maximum period specified in the contract pursuant to that subsection 22(b) shall not be less than the annual amount and the period for payment which are requisite to provide for the payment when due of all installments of principal and interest on the obligations.

(e) Registered warrants of this state.

(f) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by the United States Postal Service, federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, consolidated obligations of the federal home loan banks established under the Federal Home Loan Bank Act, bonds, debentures and other obligations of the Federal National Mortgage Association or of the Government National Mortgage Association established under the National Housing Act, as amended, bonds of any federal home loan bank established under that act, bonds, debentures and other obligations of the Federal Home Loan Mortgage Corporation established under the Emergency Home Finance Act of 1970, and obligations of the Tennessee Valley Authority.

(g) Notes, tax anticipation warrants or other evidence of indebtedness issued pursuant to Article 7 (commencing with Section 53820), Article 7.5 (commencing with Section 53840) or Article 7.6 (commencing with Section 53850) of this Chapter 4.

(h) State of California notes.

(i) Bonds, notes, certificates of indebtedness, warrants or other obligations issued by: (1) any state of the United States (except this state), or the Commonwealth of Puerto Rico, or any local agency thereof having the power to levy taxes, without limit as to rate or amount, to pay the principal and interest of such obligations, or (2) any state of the United States (except this state), or the Commonwealth of Puerto Rico, or a department, board, agency or authority thereof except bonds which provide for or are issued pursuant to a law which may contemplate a subsequent legislative appropriation as an assurance of the continued operation and solvency of the department, board, agency or authority but which does not constitute a valid and binding obligation for which the full faith and credit of such state or the Commonwealth of Puerto Rico are pledged, which are payable solely out of the revenues from a revenue-producing source owned, controlled or operated thereby; provided the obligations issued by an entity described in (1), above, are rated in one of the three highest grades, and such obligations issued by an entity described in (2), above, are rated in one of the

two highest grades by a nationally recognized investment service organization that has been engaged regularly in rating state and municipal issues for a period of not less than five years.

(j) Obligations issued, assumed or guaranteed by the International Bank for Reconstruction and Development, Inter-American Development Bank, the Government Development Bank of Puerto Rico, the Asian Development Bank, the International Finance Corporation, or the African Development Bank.

(k) Participation certificates of the Export-Import Bank of the United States.

(*l*) Bonds and notes of the California Housing Finance Agency issued pursuant to Chapter 7 (commencing with Section 51350) of Part 3 of Division 31 of the Health and Safety Code.

(m) Promissory notes secured by first mortgages and first trust deeds which comply with Section 53651.2.

(n) Any bonds, notes, warrants, or other evidences of indebtedness of a nonprofit corporation issued to finance the construction of a school building or school buildings pursuant to a lease or agreement with a school district entered into in compliance with the provisions of Section 39315 or 81345 of the Education Code, and also any bonds, notes, warrants or other evidences of indebtedness issued to refinance those bonds, notes, warrants, or other evidences of indebtedness as specified in Section 39317 of the Education Code.

(o) Any municipal securities, as defined by Section 3(a)(29) of the Securities Exchange Act of June 6, 1934, (15 U.S.C. Sec. 78, as amended), which are issued by this state or any local agency thereof.

(p) With the consent of the treasurer, letters of credit issued by the Federal Home Loan Bank of San Francisco which comply with Section 53651.6.

SEC. 8. Section 1192.1 of the Insurance Code is amended to read:

1192.1. Excess funds investments may be made in bonds, notes or other obligations issued, assumed or guaranteed by the International Bank for Reconstruction and Development, or the Inter-American Development Bank, or the Government Development Bank for Puerto Rico, or the Asian Development Bank, the International Finance Corporation, or the African Development Bank. Investments held under the authority of this section at any one time shall not be in excess of 2½ percent of the insurer's admitted assets or an amount equal to 25 percent of the total of the capital and surplus of such insurer, whichever is the lesser. Percentage or dollar value of assets and surplus as provided herein shall be determined by the insurer's last preceding annual statement of conditions and affairs filed with the commissioner pursuant to law.

CHAPTER 1207

An act to amend Section 4801 of the Civil Code, relating to family law.

[Approved by Governor October 14, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 4801 of the Civil Code is amended to read:

4801. (a) In any judgment decreeing the dissolution of a marriage or a legal separation of the parties, the court may order a party to pay for the support of the other party any amount, and for any period of time, as the court may deem just and reasonable, based on the standard of living established during the marriage. In making the award, the court shall consider all of the following circumstances of the respective parties:

(1) The extent to which the earning capacity of each spouse is sufficient to maintain the standard of living established during the marriage, taking into account all of the following:

(A) The marketable skills of the supported spouse; the job market for those skills; the time and expenses required for the supported spouse to acquire the appropriate education or training to develop those skills; and the possible need for retraining or education to acquire other, more marketable skills or employment.

(B) The extent to which the supported spouse's present or future earning capacity is impaired by periods of unemployment that were incurred during the marriage to permit the supported spouse to devote time to domestic duties.

(2) The extent to which the supported spouse contributed to the attainment of an education, training, a career position, or a license by the other spouse.

(3) The ability to pay of the supporting spouse, taking into account the supporting spouse's earning capacity, earned and unearned income, assets, and standard of living.

(4) The needs of each party based on the standard of living established during the marriage.

(5) The obligations and assets, including the separate property, of each.

(6) The duration of the marriage.

(7) The ability of the supported spouse to engage in gainful employment without interfering with the interests of dependent children in the custody of the spouse.

(8) The age and health of the parties.

(9) The immediate and specific tax consequences to each party.

(10) Any other factors which it deems just and equitable.

The court shall make specific factual findings with respect to the standard of living during the marriage, and, at the request of either

party, the court shall make appropriate factual determinations with respect to any other circumstances. The court may order the party required to make the payment of support to give reasonable security therefor. Any order for support of the other party may be modified or revoked as the court may deem necessary, except as to any amount that may have accrued prior to the date of the filing of the notice of motion or order to show cause to modify or revoke. Any order for spousal support may be made retroactive to the date of filing of the notice of motion or order to show cause therefor, or to any subsequent date. At the request of either party, the order of modification or revocation shall include a statement of decision and may be made retroactive to the date of filing of the notice of motion or order to show cause therefor, or to any subsequent date.

(b) Except as otherwise agreed by the parties in writing, the obligation of any party under any order or judgment for the support and maintenance of the other party shall terminate upon the death of either party or the remarriage of the other party.

(c) When a court orders a person to make specified payments for support of the other party for a contingent period of time, the liability of the person terminates upon the happening of the contingency. If the party to whom payments are to be made fails to notify the person ordered to make the payments, or the attorney of record of the person so ordered, of the happening of the contingency and continues to accept support payments, the supported party shall refund any moneys received which accrued after the happening of the contingency, except that the overpayments shall first be applied to any support payments which are then in default. The court may, in the original order for support, order the party to whom payments are to be made to notify the person ordered to make the payments, or his or her attorney of record, of the happening of the contingency.

(d) An order for payment of an allowance for the support of one of the parties shall terminate at the end of the period specified in the order and shall not be extended unless the court in its original order retains jurisdiction. Except upon written agreement of the parties to the contrary or a court order terminating spousal support, the court retains jurisdiction indefinitely where the marriage has been of long duration.

For purposes of retaining jurisdiction, there is a presumption affecting the burden of providing evidence, that a marriage of 10 years or more, from the date of marriage to the date of separation, is a marriage of long duration. However, the court may consider periods of separation during the marriage in determining whether the marriage is in fact of long duration. Nothing in this section precludes a court from determining that a marriage of less than 10 years is a marriage of long duration. Nothing in this section limits the court's discretion to terminate spousal support in subsequent proceedings upon a showing of changed circumstances.

The amendments to this subdivision enacted at the 1987 portion of the 1987–88 Regular Session apply in those proceedings pending on

January 1, 1988, in which the court has not entered a permanent spousal support order or in which the court order is subject to modification, and to any case filed on or after January 1, 1988.

(e) In any proceeding under this section the court may order either party to submit to an examination by a vocational training counselor. The examination shall include an assessment of the party's ability to obtain employment based upon the party's age, health, education, marketable skills, employment history, and the current availability of employment opportunities. The focus of the examination shall be on an assessment of the party's ability to obtain employment that would allow the party to maintain herself or himself at the marital standard of living. The order may be made only on motion, for good cause shown, and upon notice to the party to be examined and to all parties, and shall specify the time, place, manner, conditions, scope of the examination, and the person or persons by whom it is to be made. The party refusing to comply with such an order shall be subject to the same consequences provided for failure to comply with an examination ordered pursuant to Section 2032 of the Code of Civil Procedure.

(f) For the purposes of this section, "vocational training counselor" means an individual with sufficient knowledge, skill, experience, training, or education in interviewing, administering, and interpreting tests for analysis of marketable skills, formulating career goals, planning courses of training and study, and assessing the job market, to qualify as an expert in vocational training under Section 720 of the Evidence Code.

A vocational training counselor shall have at least the following qualifications:

(1) A masters degree in the behavioral sciences.

(2) Be qualified to administer and interpret inventories for assessing career potential.

(3) Demonstrated ability in interviewing clients and assessing marketable skills with understanding of age constraints, physical and mental health, previous education and experience, and time and geographic mobility constraints.

(4) Knowledge of current employment conditions, job market, and wages in the indicated geographic area.

(5) Knowledge of education and training programs in the area with costs and time plans for these programs.

(g) The court may order the supporting spouse to pay, in addition to spousal support, the necessary expenses and costs of the counseling, retraining, or education.

CHAPTER 1208

An act to add Article 3.3 (commencing with Section 15339.25) to Chapter 1 of Part 6.7 of Division 3 of Title 2 of the Government Code, relating to small business.

[Approved by Governor October 14, 1991 Filed with Secretary of State October 14, 1991]

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

SECTION 1. Article 3.3 (commencing with Section 15339.25) is added to Chapter 1 of Part 6.7 of Division 3 of Title 2 of the Government Code, to read:

Article 3.3. Minority and Women's Business

15339.25. (a) The Legislature finds and declares that the expansion and development of for-profit and nonprofit businesses owned or operated by women and minorities is vital to the overall growth and health of the California economy and further that ethnic groups by the year 2010 will become the majority of the state's population and will have a significant impact on the state's economy.

(b) No state entity is charged with collecting and interpreting business-related data which helps identify the reasons why minority and women-owned or operated businesses have significantly lower business participation rates than their nonminority male counterparts.

(c) The collection and dissemination of data and information pertaining to businesses owned by minorities and women will assist state government to take corrective action on, and to enact, programs and policies designed to encourage the full incorporation of those businesses into the California economy.

15339.26. The University of California is requested to conduct a study to review, analyze, and document information regarding the status of the state's minority and women-owned or operated businesses and their impact on the state's economy. The guidance of the California Policy Seminar may be sought in designing and undertaking the study.

15339.27. The university is requested to solicit grants, contributions, and appropriations from public agencies, private foundations, and individuals to support the study.

15339.28. The study shall collect data that shall include, but not be limited to, the following areas:

(a) Business industry or industries in which minority and women-owned or operated businesses are concentrated.

(b) Rates of ownership or operation of businesses by minorities and women, including the number of businesses owned per thousand.

(c) Number of employees, annual payroll, and overall record of sales and gross receipts.

(d) A description of state business development programs designed to support women and minority-owned or operated businesses.

(e) A comparison of the above factors with nonminority male business owners.

15339.29. It is the intent of the Legislature that the University of California's California Policy Seminar report the study's findings to the Governor, the Legislature, and the Small Business Development Board under the Department of Commerce on or before March 30, 1993.

15339.30. To accomplish the purposes of this article, the Secretary of the Business, Transportation and Housing Agency shall cooperate with the university in its conduct of the study and may assign employees from within the various departments of the agency, or request the assistance of other civil service and exempt positions in the various executive branch departments, to assist the university in conducting and completing the study. State agencies which shall make data available for the project, include, but are not limited to, the Franchise Tax Board, the State Board of Equalization, the Employment Development Department, and the Office of Small and Minority Business within the Department of General Services. Nothing in this section shall be construed to require an agency to disclose any confidential information that would link the data to the individual or business to whom it pertains.

SEC. 2. The study authorized by Section 15339.26 of the Government Code shall be subject to the availability of funding pursuant to Section 15339.27 of the Government Code. The Legislature requests that the University of California, the Department of Corrections, the Department of Transportation, and other appropriate state agencies supplement funding for the study pursuant to Section 15339.27 of the Government Code.

CHAPTER 1209

An act to amend Section 25200.4 of, to add Section 25186.3 to, and to add Article 1.5 (commencing with Section 42330) to Chapter 4 of Part 4 of Division 26 of, the Health and Safety Code, relating to the environment.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 25186.3 is added to the Health and Safety Code, to read:

25186.3. (a) The department shall prepare a written report pursuant to subdivision (b) whenever the department proposes to issue a hazardous waste facilities permit applied for pursuant to Section 25200 and the department has information that the applicant, or the applicant under any previous name or names, or, if the applicant is a business concern, any officer, director, or partner of the business concern, has been named as a party in any action involving violation of any statute, regulation, or requirement specified in Section 25186, excluding civil and administrative penalties of one thousand dollars ($1,000) or less at any hazardous waste facility issued a permit pursuant to this chapter, and that a conviction, judgment, or settlement has been entered during a three-year period preceding the date of application.

(b) The report shall list all convictions, judgments, and settlements relating to violations of any statutes, regulations, or requirements specified in Section 25186, excluding civil and administrative penalties of one thousand dollars ($1,000) or less at any hazardous waste facility issued a permit pursuant to this chapter, that occurred during the three-year period preceding the date of application. The listing of settlements shall include the following statement: "Settlements may or may not include admissions of guilt."

The report shall separately list all criminal convictions and those violations resulting in penalties of fifty thousand dollars ($50,000) or more and shall be included in the administrative record for the proposed permit.

(c) For the purposes of this section, the department may use criminal history information obtained from the Department of Justice to the extent that the information is necessary to list all convictions, judgments, and settlements as required by subdivision (b).

(d) This section does not apply to facilities that meet the requirements necessary to operate pursuant to the department's permit-by-rule regulations.

SEC. 2. Section 25200.4 of the Health and Safety Code is amended to read:

25200.4. (a) Any application to use and operate a hazardous waste facility made pursuant to Section 25200, other than one submitted by a federal, state, or local agency, shall include a disclosure statement.

(b) The department shall take into consideration information provided by the applicant in the disclosure statement, any information made available to the department pursuant to Section 25186.5, and any information contained in the written report prepared pursuant to Section 25186.3, in making a decision pursuant to Section 25186 whether to issue or deny a hazardous waste facilities permit to use and operate the hazardous waste facility.

(c) Notwithstanding this article, on and after July 1, 1992, the department shall not issue a hazardous waste facilities permit unless it has provided, or caused to be provided, public notice in a

newspaper of general circulation within the area affected by the proposed facility of its consideration of a hazardous waste facilities permit application for the proposed facility. If the department has information that the applicant, or the applicant under any previous name or names, or, if the applicant is a business concern, any officer, director, or partner of the business concern, has been named as a party in an action in any court or administrative tribunal involving violation of any statute, regulation, or requirement specified in Section 25186, and that a conviction, judgment, or settlement has been entered during a three-year period preceding the date of application, the public notice required by this section, and any other public notice which the department is required to provide relating to the issuance of the hazardous waste facilities permit, shall include a statement that information regarding the facility owner's environmental compliance record is included in the administrative record for the proposed permit.

(d) The notice required by subdivision (c) shall be in addition to, and shall not supplant, the notice required by subdivision (a) of Section 25199.7.

(e) This section does not apply to facilities that meet the requirements necessary to operate pursuant to the department's permit-by-rule regulations.

(f) This section shall remain in effect only until January 1, 1997, and as of that date is repealed, unless a later enacted statute, which is enacted on or before January 1, 1997, deletes or extends that date.

SEC. 3. Article 1.5 (commencing with Section 42330) is added to Chapter 4 of Part 4 of Division 26 of the Health and Safety Code, to read:

Article 1.5. District Review of a Permit Applicant's Compliance History

42330. The Legislature finds and declares that the effective regulation of air pollution emissions requires that permit applicants who have a demonstrated recurring pattern of air pollution control violations, and who have consistently refused to take the necessary steps to cooperate with a district to correct those violations, shall be subject to appropriate permit actions to bring them into compliance. The Legislature further finds that noncompliance may endanger the public health and safety and the environment and places permit applicants that are in compliance at a serious competitive disadvantage.

It is the intent of the Legislature in enacting this article to provide districts with an effective enforcement tool to bring noncompliant permit applicants into conformity with the applicable air pollution control laws and regulations. It is further the intent of the Legislature that any permit action authorized by this article shall be taken only after a district has attempted to bring the applicant into voluntary or required compliance, in accordance with the procedural and due

process requirements prescribed by this article.

42331. (a) Prior to issuing a permit pursuant to Article 1 (commencing with Section 42300), the air pollution control officer may review the compliance history of the applicant submitted to the district pursuant to Section 42336, under laws or regulations governing the control of air pollution, including the Clean Air Act (42 U.S.C. Sec. 7401 and following) and regulations adopted thereunder, and this division and regulations adopted pursuant to this division.

(b) In reviewing the applicant's compliance history, the officer shall take into account the size and complexity of the applicant's operations, the compliance history of all sources within the facility for which the permit is being sought, and the number of permits held by the applicant.

(c) For a permit for new or modified equipment at an existing facility, the officer's review of an applicant's compliance history shall be limited to the compliance history of the facility in question and the compliance history of other permitted sources at facilities owned, operated, or controlled by the applicant in the district. As used in this subdivision, "modified equipment" means any modification, including a change in the method of operation, that would require a permit modification under district rules.

42332. (a) Prior to renewing a permit, an air pollution control officer may review the compliance history of the source in question at the facility, as shown in district records, under laws or regulations governing the control of air pollution, including the Clean Air Act (42 U.S.C. Sec. 7401 and following) and regulations adopted thereunder, and this division and regulations adopted pursuant to this division.

(b) In reviewing an applicant's compliance history, the officer shall take into account the size and complexity of the applicant's operations and the number of permits held by the applicant.

42333. (a) An air pollution control officer may, pursuant to this article, deny a permit, refuse to renew a permit, or specify additional permit conditions to ensure compliance with applicable rules and regulations, if the officer determines that each of the following has occurred:

(1) In the three-year period preceding the date of application, the applicant has violated laws or regulations identified in subdivision (a) of Section 42331 and subdivision (a) of Section 42332 resulting in either excessive emissions or violations at a facility which is required to be permitted but is not permitted, owned or operated by the applicant.

(2) A notice of violation was issued for those violations.

(3) A variance was not in effect with respect to those violations.

(4) The violations demonstrate a recurring pattern of noncompliance or pose or have posed a significant risk to the public health or safety or to the environment.

(5) Notice and an opportunity for an office conference was

provided pursuant to Section 42334.

(b) This section does not apply to a permit to operate, or the renewal of such a permit, issued by an air pollution control officer for a facility which is owned or operated by an applicant, unless the applicant has met the criteria set forth in paragraphs (1) to (4), inclusive, of subdivision (a) at the source in question at that facility.

(c) For the purposes of determining a permit action under this section, the air pollution control officer shall take into consideration the size and complexity of the applicant's operations and the number of permits held by the applicant.

(d) The air pollution control officer's determination of whether to deny a permit shall be based upon all of the following:

(1) Whether the emissions violations forming the basis for the denial were the result of circumstances beyond the reasonable control of the applicant and could not have been prevented by the exercise of reasonable care.

(2) Whether a permit denial is not an appropriate action given the severity of the violations, or that the denial is not supported by the applicant's overall compliance history.

(3) Whether a permit denial is not an appropriate action because the equipment type, operational character, or emissions capacity of the sources where the violations occurred are significantly different than that of the source for which the permit is being sought.

(4) Whether the violation has been corrected in a timely fashion or reasonable progress is being made.

(5) Whether a permit denial is not an appropriate action because a variance has been granted with respect to those violations.

(6) Whether the violations demonstrate a recurring pattern of noncompliance or pose or have posed a significant risk to the public health or safety or to the environment.

(7) Whether notice and an opportunity for an office conference was provided pursuant to Section 42334.

(e) A permit denial pursuant to subdivision (a) which is based solely upon violations which have not been admitted by the applicant or otherwise established by law shall be set aside by a hearing board if a hearing has been requested by the applicant pursuant to Section 42302, unless the air pollution control officer, following the presentation of substantial evidence and the applicant's opportunity to rebut the evidence, proves that the violation did occur, and that denial is supported by the applicant's overall compliance history.

42334. If, in the course of enforcing existing permits and conducting inspections relative thereto, an air pollution control officer makes a preliminary determination that the person has met the criteria prescribed in paragraphs (1) to (4), inclusive, of subdivision (a) of Section 42333, the officer shall take all of the following actions:

(a) Notify the person, in writing, that the district has made a preliminary determination that the person has met those criteria and

that the district may take action pursuant to subdivision (a) of Section 42333. The notice shall include all facts relating to the preliminary determination which are known to the officer.

(b) Request, as part of the notification required by subdivision (a), that the person confer with the officer in an office conference to discuss the pattern of noncompliance.

(c) Conduct the office conference.

42335. A permit denied pursuant to Section 42333 shall be set aside by the hearing board under either of the following conditions:

(a) The applicant proves that either:

(1) The emissions violations forming the basis for the denial were the result of circumstances beyond the reasonable control of the applicant and could not have been prevented by the exercise of reasonable care.

(2) The denial is not an appropriate action given the severity of the violations, or is not supported by the applicant's overall compliance history.

(b) The violation has been corrected in a timely fashion or reasonable progress is being made.

42336. In addition to any other information required to be submitted, an applicant for a permit to construct or a permit to operate which involves a change of operator who has owned or operated a facility pursuant to a permit issued by any district shall provide a description of all emissions violations satisfying the criteria specified in paragraphs (1) to (3), inclusive, of subdivision (a) of Section 42333, under this division or any regulation adopted pursuant to this division, and the Clean Air Act (42 U.S.C. Sec. 7401 and following) or any regulations adopted thereunder, which occurred at any facility permitted by any district and owned or operated by the applicant in the state in the three years prior to the date of application.

42337. Any public notice provided by the district concerning the issuance of a permit to an applicant shall include, in addition to a description of the proposed project, a statement that information regarding the facility owner's compliance history submitted to the district pursuant to Section 42336, or otherwise known to the district, based on credible information, is available from the district for public review.

42338. Nothing in this article limits the existing authority of the district.

42339. This article does not apply to nuisance complaints based on odor emissions.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Moreover, no reimbursement is required by this act pursuant to Section 6 of Article

XIII B of the California Constitution for other costs because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1210

An act to amend Section 6650 of, to add Section 6652 to, and to repeal and add Section 6651 of, the Labor Code, relating to civil penalties.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 6650 of the Labor Code is amended to read:

6650. (a) After the expiration of the period during which a penalty may be appealed, no appeal having been filed, the department may file with the clerk of the superior court in any county a certified copy of the citation and notice of civil penalty, the certification by the department that the penalty remains unpaid, and the division's proof of service on the employer of the items filed with the clerk of the court.

(b) After the exhaustion of the review procedures provided for in Chapter 7 (commencing with Section 6600), an appeal having been filed, the department may file with the clerk of the superior court in any county a certified copy of the citation and notice of civil penalty, a certified copy of the order, findings or decision of the appeals board, the certification of the department that the penalty remains unpaid, and proof of service on the employer at the employer's address as shown on the official address record by the appeals board.

(c) The clerk, immediately upon the filing of a notice of civil penalty by the department pursuant to subdivision (a) or (b), shall enter judgment for the state against the person assessed the civil penalty in the amount of the penalty, plus interest due for each day from the date of issuance of the notice of civil penalty that the penalty remains unpaid.

(d) The department shall serve the notice of entry of judgment provided by Section 554.6 of the Code of Civil Procedure on the employer.

A judgment entered pursuant to this section shall bear the same rate of interest, have the same effect as other judgments, and be given the same preference allowed by law on other judgments

rendered for claims for taxes pursuant to Section 7170 of the Government Code. No fees shall be charged by the clerk of any court for the performance of any official service required by this chapter.

SEC. 2. Section 6651 of the Labor Code is repealed.

SEC. 3. Section 6651 is added to the Labor Code, to read:

6651. Notwithstanding Section 340 of the Code of Civil Procedure, an action to collect a civil penalty shall commence no later than three years from the date the notice of civil penalty is final.

SEC. 4. Section 6652 is added to the Labor Code, to read:

6652. The division shall provide the Contractors' State License Board with a certified copy of every notice of civil penalty deemed to be a final order pursuant to Section 6601 or after the exhaustion of all other review procedures pursuant to Chapter 7 (commencing with Section 6600) when both of the following have occurred:

(a) The employer served with the notice of civil penalty is, or is thought to be, a licensee licensed by the Contractors' State License Board.

(b) The employer referred to in subdivision (a) has failed to pay the civil penalty after a period of 60 days following that employer's receipt of the notice of civil penalty.

(c) When the employer has paid the civil penalty referenced in the certified copy of notice of civil penalty that was provided to the Contractors' State License Board, including all interest owed thereon, then the division shall provide to the employer who was the subject of the certified copy of notice a written confirmation or receipt stating that the employer has paid the amount owed that was the subject of the certified notice provided to the board.

CHAPTER 1211

An act to add Section 19549.13 to the Business and Professions Code, relating to horseracing.

[Approved by Governor October 14, 1991 Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 19549.13 is added to the Business and Professions Code, to read:

19549.13. (a) Fairs that conduct racing meetings in the northern zone may, and horsemen's organizations that represent horsemen who participate at fair racing meetings in the northern zone shall, jointly develop a program to provide for stabling and training facilities. This program shall be based on the anticipated inventory of horses and the number of available stalls and locations.

(b) Participating fairs and horsemen's organizations shall annually ratify an agreement which includes provisions governing

the operation of the stabling and training facilities. The agreement shall also specify the conditions under which a participating fair may terminate its participation in the program.

(c) Individual horsemen who elect to participate in the program shall be required to sign standard agreements with the participating fair governing the operation of the program. The agreements shall contain provisions that govern the operation of the program, including, but not be limited to, insurance coverage and payment of a security deposit.

(d) All agreements provided for in this section shall be approved by the board.

(e) Each fair that conducts racing meetings in the northern zone may elect whether to participate in the stabling and training program.

CHAPTER 1212

An act to amend Section 65962.5 of the Government Code, and to amend Section 21084 of, and to add Section 21092.6 to, the Public Resources Code, relating to environmental quality.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 65962.5 of the Government Code is amended to read:

65962.5. (a) The Department of Toxic Substances Control shall compile and update as appropriate, but at least annually, and shall submit to the Secretary for Environmental Protection, a list of all of the following:

(1) All hazardous waste facilities subject to corrective action pursuant to Section 25187.5 of the Health and Safety Code.

(2) All land designated as hazardous waste property or border zone property pursuant to Article 11 (commencing with Section 25220) of Chapter 6.5 of Division 20 of the Health and Safety Code.

(3) All information received by the Department of Toxic Substances Control pursuant to Section 25242 of the Health and Safety Code on hazardous waste disposals on public land.

(4) All sites listed pursuant to Section 25356 of the Health and Safety Code.

(5) All sites included in the Abandoned Site Assessment Program.

(b) The State Department of Health Services shall compile and update as appropriate, but at least annually, and shall submit to the Secretary for Environmental Protection, a list of all public drinking water wells which contain detectable levels of organic contaminants and which are subject to water analysis pursuant to Section 4026.2 or

4026.3 of the Health and Safety Code.

(c) The State Water Resources Control Board shall compile and update as appropriate, but at least annually, and shall submit to the Secretary for Environmental Protection, a list of all of the following:

(1) All underground storage tanks for which an unauthorized release report is filed pursuant to Section 25295 of the Health and Safety Code.

(2) All solid waste disposal facilities from which there is a migration of hazardous waste and for which a California regional water quality control board has notified the Department of Toxic Substances Control pursuant to subdivision (e) of Section 13273 of the Water Code.

(3) All cease and desist orders issued after January 1, 1986, pursuant to Section 13301 of the Water Code, and all cleanup or abatement orders issued after January 1, 1986, pursuant to Section 13304 of the Water Code, which concern the discharge of wastes which are hazardous materials.

(d) The local enforcement agency, as designated pursuant to Section 18051 of Title 14 of the California Code of Regulations, shall compile as appropriate, but at least annually, and shall submit to the California Integrated Waste Management Board, a list of all solid waste disposal facilities from which there is a known migration of hazardous waste. The California Integrated Waste Management Board shall compile the local lists into a statewide list which shall be submitted to the Secretary for Environmental Protection and shall be available to any person who requests the information.

(e) The Secretary for Environmental Protection shall consolidate the information submitted pursuant to this section and distribute it in a timely fashion to each city and county in which sites on the lists are located. The secretary shall distribute the information to any other person upon request. The secretary may charge a reasonable fee to persons requesting the information, other than cities, counties, or cities and counties, to cover the cost of developing, maintaining, and reproducing and distributing the information.

(f) Before a lead agency accepts as complete an application for any development project which will be used by any person, the applicant shall consult the lists sent to the appropriate city or county and shall submit a signed statement to the local agency indicating whether.the project and any alternatives are located on a site which is included on any of the lists compiled pursuant to this section and shall specify any list. If the site is included on a list, and the list is not specified on the statement, the lead agency shall notify the applicant pursuant to Section 65943. The statement shall read as follows:

HAZARDOUS WASTE AND SUBSTANCES STATEMENT

The development project and any alternatives proposed in this application are contained on the lists compiled pursuant to Section 65962.5 of the Government Code. Accordingly, the project

applicant is required to submit a signed statement which contains the following information:

Name of applicant:
Address:
Phone number:
Address of site (street name and number if available, and ZIP Code):
Local agency (city/county):
Assessor's book, page, and parcel number:
Specify any list pursuant to Section 65962.5 of the Government Code:
Regulatory identification number:
Date of list:

Applicant, date

(g) The changes made to this section by the act amending this section, which takes effect January 1, 1992, apply only to projects for which applications have not been deemed complete on or before January 1, 1992, pursuant to Section 65943.

SEC. 2. Section 21084 of the Public Resources Code is amended to read:

21084. (a) The guidelines prepared and adopted pursuant to Section 21083 shall include a list of classes of projects which have been determined not to have a significant effect on the environment and which shall be exempt from this division. In adopting the guidelines, the Secretary of the Resources Agency shall make a finding that the listed classes of projects referred to in this section do not have a significant effect on the environment.

(b) No project which may result in damage to scenic resources, including, but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway designated as an official state scenic highway, pursuant to Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code, shall be exempted from this division pursuant to subdivision (a). This subdivision does not apply to improvements as mitigation for a project for which a negative declaration has been approved or an environmental impact report has been certified.

(c) No project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code shall be exempted from this division pursuant to subdivision (a).

(d) The changes made to this section by the act amending this section, which takes effect January 1, 1992, apply only to projects for which applications have not been deemed complete on or before January 1, 1992, pursuant to Section 65943 of the Government Code.

SEC. 3. Section 21092.6 is added to the Public Resources Code, to read:

21092.6. (a) The lead agency shall consult the lists compiled pursuant to Section 65962.5 of the Government Code to determine whether the project and any alternatives are located on a site which

is included on any list. The lead agency shall indicate whether a site is on any list not already identified by the applicant. The lead agency shall specify the list and include the information in the statement required pursuant to subdivision (f) of Section 65962.5 of the Government Code, in the notice required pursuant to Section 21080.4, a negative declaration, and a draft environmental impact report. The requirement in this section to specify any list shall not be construed to limit compliance with this division.

(b) If a project or any alternatives are located on a site which is included on any of the lists compiled pursuant to Section 65962.5 of the Government Code and the lead agency did not accurately specify or did not specify any list pursuant to subdivision (a), the California Environmental Protection Agency shall notify the lead agency specifying any list with the site when it receives notice pursuant to Section 21080.4, a negative declaration, and a draft environmental impact report. The California Environmental Protection Agency shall not be liable for failure to notify the lead agency pursuant to this subdivision.

(c) This section applies only to projects for which applications have not been deemed complete pursuant to Section 65943 of the Government Code on or before January 1, 1992.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1213

An act to amend Sections 1240, 35035, 39602, 39603, 41320.1, 42100, 42103, 42127, 42127.1, 42127.2, 42127.3, and 42127.4 of, to amend and renumber Section 35014 of, to add Sections 42127.6, 42127.8, 42127.9, 42132, 42133, and 42134 to, to add Article 2.5 (commencing with Section 41325) to Chapter 3 of Part 24 of, to add Article 3 (commencing with Section 42130) to Chapter 6 of Part 24 of, to repeal and add Article 2 (commencing with Section 1620) of Chapter 5 of Part 2 of, and to repeal Sections 35015, 42102, and 42120 of, the Education Code, and to add Section 3547.5 to the Government Code, relating to school finance, and making an appropriation therefor.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 1240 of the Education Code is amended to read:

1240. The superintendent of schools of each county shall:

(a) Superintend the schools of his or her county.

(b) Visit and examine each school in his or her county at reasonable intervals to observe its operation and to learn of its problems. He or she may annually present a report of the state of the schools in his or her county, and of his or her office, including, but not limited to, his or her observations while visiting the schools, to the board of education and the board of supervisors of his or her county.

(c) Distribute all laws, reports, circulars, instructions, and blanks that he or she may receive for the use of the school officers.

(d) Keep in his or her office the reports of the Superintendent of Public Instruction.

(e) Keep a record of his or her official acts, and of all the proceedings of the county board of education, including a record of the standing, in each study, of all applicants for certificates who have been examined, which shall be open to the inspection of any applicant or his or her authorized agent.

(f) Enforce the course of study.

(g) Enforce the use of state textbooks and of high school textbooks regularly adopted by the proper authority.

(h) Preserve carefully all reports of school officers and teachers.

(i) Deliver to his or her successor, at the close of his or her official term, all records, books, documents, and papers belonging to the office, taking a receipt for them, which shall be filed with the State Department of Education.

(j) Submit two reports during the fiscal year to the county board of education in accordance with the following:

(1) The first report shall cover the financial and budgetary status of the county office of education for the period ending October 31. The second report shall cover the period ending January 31. Both reports shall be reviewed by the county board of education and approved by the county superintendent of schools no later than 45 days after the close of the period being reported.

(2) As part of each report, the superintendent shall certify in writing whether or not the county office of education is able to meet its financial obligations for the remainder of the fiscal year and, based on current forecasts, for the subsequent fiscal year. The certifications shall be classified as positive, qualified, or negative, pursuant to standards prescribed by the Superintendent of Public Instruction, for the purposes of determining subsequent state agency actions pursuant to Section 1240.1. For purposes of this subdivision, a

negative certification shall be assigned to any county office of education that likely will be unable to meet its financial obligations for the remainder of the fiscal year or for which existing expenditures practices jeopardize the ability of the county office of education to meet its multiyear financial commitments. In accordance with those standards, the Superintendent of Public Instruction may reclassify any certification. As to any county office of education having a negative certification, the Superintendent of Public Instruction or his or her designee may exercise the authority set forth in subdivision (b) of Section 1630. Copies of each certification, and of the report containing that certification, shall be sent to the Superintendent of Public Instruction at the time the certification is submitted to the county board of education. Copies of each qualified or negative certification, and of the report containing that certification, shall be sent to the Controller at the time the certification is submitted to the county board of education.

(3) All reports and certifications required under this subdivision shall be in a format or on forms prescribed by the Superintendent of Public Instruction, and shall be based on standards and criteria for fiscal stability adopted by the State Board of Education pursuant to Section 33127. The reports, and supporting data, shall be made available by the county superintendent of schools to any interested party upon request.

(4) This subdivision does not preclude the submission of additional budgetary or financial reports by the superintendent to the county board of education or to the Superintendent of Public Instruction.

(k) When so requested, act as agent for the purchase of supplies for the city and high school districts of his or her county.

(*l*) For purposes of Section 44421.5, report to the Commission on Teacher Credentialing the identity of any certificated person who knowingly and willingly reports false fiscal expenditure data relative to the conduct of any educational program. This requirement applies only if, in the course of his or her normal duties, the county superintendent of schools discovers information that gives him or her reasonable cause to believe that false fiscal expenditure data relative to the conduct of any educational program has been reported.

SEC. 2. Article 2 (commencing with Section 1620) of Chapter 5 of Part 2 of the Education Code is repealed.

SEC. 3. Article 2 (commencing with Section 1620) is added to Chapter 5 of Part 2 of the Education Code, to read:

Article 2. County Office of Education Budget Approval

1620. On or before July 1 each fiscal year, the county board of education shall hold a public hearing on the proposed county school service fund budget for that fiscal year (the "budget year"). The public hearing shall be held prior to the adoption of the budget by the county board of education, and shall occur not less than three

days following the availability of the proposed budget for public inspection. At the hearing, any taxpayer directly affected by the county school service fund budget may appear before the county board of education and speak on the proposed budget or any item therein.

1621. (a) The single-fund budget shall be prepared in the form prescribed and furnished by the Superintendent of Public Instruction and shall be the county school service fund budget. The budget shall show a complete plan and itemized statement of all proposed expenditures in each fund of the county office of education, of estimated cash balances, and of all estimated revenues for the budget year, and shall include an estimate of those figures, unaudited, for the fiscal year immediately preceding the budget year.

(b) The budget may contain an amount to be known as the general reserve, in such sum as the county board of education may deem sufficient to meet the cash requirements of the fiscal year next succeeding the budget year until adequate proceeds of the taxes levied or of the apportionment of state funds are available.

(c) The budget may contain a fund balance designated for any specific purpose as determined by the county board of education. Those funds shall be available for appropriation by a majority vote of the members of the county board of education.

1622. (a) On or before July 1 each fiscal year, the county board of education shall adopt an annual budget for the budget year and shall file that budget with the Superintendent of Public Instruction, the county board of supervisors, and the county auditor. The budget, and supporting data, shall be maintained and made available for public review. The budget shall indicate the date, time, and location at which the county board of education held the public hearing required under Section 1620.

(b) The Superintendent of Public Instruction shall examine the budget to determine whether it complies with the standards and criteria adopted by the State Board of Education pursuant to Section 33127 for application to final local educational agency budgets, and shall identify any technical corrections to the budget that must be made. On or before August 1, the Superintendent of Public Instruction shall approve or disapprove the budget and, in the event of a disapproval, transmit to the county office of education in writing his or her recommendations regarding revision of the budget and the reasons for those recommendations.

(c) On or before September 1, the county board of education shall revise the county office of education budget to reflect changes in projected income or expenditures subsequent to July 1, and to include any response to the recommendations of the Superintendent of Public Instruction, shall adopt the revised budget, and shall file the revised budget with the Superintendent of Public Instruction, the county board of supervisors, and the county auditor. Prior to revising the budget, the county board of education shall hold a public hearing

regarding the proposed revisions, which shall be made available for public inspection not less than three working days prior to the hearing. The revised budget, and supporting data, shall be maintained and made available for public review.

(d) The Superintendent of Public Instruction shall examine the revised budget to determine whether it complies with the standards and criteria adopted by the State Board of Education pursuant to Section 33127 for application to final local educational agency budgets and, no later than September 15, shall approve or disapprove the revised budget. If the Superintendent of Public Instruction disapproves the budget, he or she shall call for the formation of a budget review committee pursuant to Section 1623.

(e) Notwithstanding any other provision of this section, the budget review for a county office of education shall be governed by paragraphs (1), (2), and (3) of this subdivision, rather than by subdivisions (c) and (d), if the county board of education so elects, and notifies the Superintendent of Public Instruction in writing of that decision, no later than October 31 of the immediately preceding calendar year.

(1) In the event of the disapproval of the budget of a county office of education pursuant to subdivision (b), on or before September 1, the county superintendent of schools and the county board of education shall review the recommendations of the Superintendent of Public Instruction at a regularly scheduled meeting of the county board of education and respond to those recommendations. That response shall include the proposed actions to be taken, if any, as a result of those recommendations.

(2) No later than five working days after receiving the response required under paragraph (1), the Superintendent of Public Instruction shall review that response and either approve or disapprove the budget of the county office of education. If the Superintendent of Public Instruction disapproves the budget, he or she shall call for the formation of a budget review committee pursuant to Section 1623.

(3) Not later than 45 days after the Governor signs the annual Budget Act, the county office of education shall make available for public review any revisions in revenues and expenditures that it has made to its budget to reflect the funding made available by that Budget Act.

1623. (a) The budget review committee shall be composed of three persons and shall be selected by the county superintendent of schools and the county board of education solely from a list of no fewer than five candidates provided by the Superintendent of Public Instruction. The candidates shall be persons who have expertise in the management of a school district or county office of education, including, but not be limited to, the fiscal and educational aspects of that management.

(b) No later than five working days after the receipt of the candidate list described in subdivision (a), the county

superintendent of schools and the county board of education shall select the budget review committee. If the county superintendent of schools and the county board of education fail to select a committee within the period of time permitted by this subdivision, the Superintendent of Public Instruction instead shall select and convene the budget review committee no later than 10 working days after the receipt by the county superintendent of schools and the county board of education of the candidate list.

(c) No later than October 31, the budget review committee shall review the proposed budget of the county office of education and the underlying fiscal policies of that county office of education, and shall transmit to the Superintendent of Public Instruction, the county superintendent of schools, and the county board of education either of the following:

(1) The recommendation that the budget be approved.

(2) A report disapproving the budget and setting forth recommendations for revisions to the budget that would enable the county office of education to meet its financial obligations both in the budget year and with regard to multiyear financial commitments.

(d) Upon the request of the budget review committee, the Superintendent of Public Instruction may extend the deadline set forth in subdivision (c) for a period of not more than 15 working days.

(e) The Superintendent of Public Instruction shall develop criteria and procedures governing the performance by budget review committees of their duties under this section.

(f) The members of the budget review committee shall be reimbursed for their services and associated expenses while on official business, at rates established by the State Board of Education.

1624. (a) If the budget review committee established pursuant to Section 1623 disapproves the budget of the county office of education, within five working days following the receipt of the committee's report, the county superintendent of schools and the county board of education may submit a response to the Superintendent of Public Instruction, including any revisions to the adopted budget and any other proposed action to be taken as a result of the recommendations of the budget review committee.

(b) Based upon the recommendations of the budget review committee provided pursuant to subdivision (c) of Section 1623, and any response provided pursuant to subdivision (a), the Superintendent of Public Instruction shall either approve or disapprove the budget of the county office of education. If the Superintendent of Public Instruction disapproves the budget, the superintendent or his or her designee may do any of the following for the remainder of the current fiscal year:

(1) On or before November 30, develop and adopt, in consultation with the county superintendent of schools and the county board of education, a fiscal plan and budget for the county office of education that will allow the county office of education to meet its financial obligations both in the budget year and with regard to the multiyear

financial commitments. The county board of education and the county superintendent of schools shall govern the operation of the county office of education for the budget year in accordance with that fiscal plan and budget. The deadline set forth in this paragraph shall be modified to reflect any extension granted under subdivision (d) of Section 1623.

(2) Cancel purchase orders, prohibit the issuance of nonsalary warrants, and otherwise stay or rescind any action that is inconsistent with the fiscal plan and budget adopted pursuant to paragraph (1). The Superintendent of Public Instruction shall inform the county board of education and the county superintendent of schools in writing of his or her justification for any exercise of authority under this paragraph.

(3) Monitor and review the operation of the county office of education.

(c) The county office of education shall pay reasonable fees charged by the Superintendent of Public Instruction for actual administrative expenses incurred pursuant to subdivision (b).

(d) This section shall not be construed to authorize the Superintendent of Public Instruction to abrogate any provision of a collective bargaining agreement that was entered into by a county office of education prior to the date upon which the Superintendent of Public Instruction disapproved the budget of the county office of education pursuant to subdivision (b).

(e) As he or she deems necessary for the purposes set forth in subdivision (b), the Superintendent of Public Instruction may seek from the county office of education, or otherwise obtain, additional information regarding the budget or operations of the county office of education, through a financial or management review of the county office of education, a cash-flow projection, or other appropriate means.

1625. The county superintendent of schools for any county office of education that reports a negative unrestricted fund balance or a negative cash balance in the annual report required by Section 1622 or in the audited annual financial statements required by Section 41020 shall include, with the budget submitted in accordance with Section 1622 and the certifications required by subdivision (e) of Section 1241, a statement identifying the reasons for the negative unrestricted fund balance or negative cash balance and the steps that will be taken to ensure that the negative balance will not occur at the end of the budget year.

1626. Until the time the county office of education receives approval of its budget under this article, the county office of education shall continue to operate on the basis of the last budget adopted or revised for the county office of education for the fiscal year immediately preceding the budget year.

1627. The county school service fund shall be audited annually by a public accountant or a certified public accountant selected by the county superintendent of schools. The cost of the audit shall be a

legal charge against the county school service fund.

1628. On or before September 15 each year, the county superintendent of schools shall prepare and file with the Superintendent of Public Instruction a statement of all receipts and expenditures of the county office of education for the preceding fiscal year. The statement shall be in a format or on forms prescribed by the Superintendent of Public Instruction.

1629. On or before September 15 each year, the county board of education shall adopt a resolution to identify, pursuant to Division 9 (commencing with Section 7900) of Title 1 of the Government Code, the estimated appropriations limit for the county office of education for the current fiscal year and the actual appropriations limit for the county office of education for the preceding fiscal year. That resolution shall be adopted at a regular or special meeting of the board. The documentation used in the identification of the appropriations limits shall be made available to the public not less than 15 days prior to the date of that meeting.

1630. (a) The Superintendent of Public Instruction shall monitor the operation of each county office of education pursuant to the budget adopted for that agency. If the Superintendent of Public Instruction determines that a county office of education will be unable to meet its financial obligations for the current or subsequent fiscal year, he or she shall notify the county board of education and the county superintendent of schools in writing of that determination, and of the basis for the determination. In addition, subsequent to that determination, the Superintendent of Public Instruction may do either or both of the following:

(1) Assign a fiscal advisor to assist the county office of education.

(2) Conduct a study of the finances of the county office of education and recommend to the county board of education and the county superintendent of schools actions to enable the county office of education to meet those obligations.

(b) If, subsequent to the receipt of recommendations provided pursuant to paragraph (2) of subdivision (a), the county board of education and the county superintendent of schools fail to take appropriate action to enable the county office of education to meet its financial obligations, the Superintendent of Public Instruction or his or her designee, in consultation with the county board of education and the county superintendent of schools, may do one or more of the following for the remainder of the current fiscal year:

(1) Develop and impose, in consultation with the county board of education and the county superintendent of schools, revisions to the county office of education budget that will enable the county office of education to meet its financial obligations.

(2) Stay or rescind any action that is inconsistent with any revision adopted pursuant to paragraph (1). The Superintendent of Public Instruction shall inform the county board of education and the county superintendent of schools in writing of his or her justification for any exercise of authority under this paragraph.

(c) The county office of education shall pay reasonable fees charged by the Superintendent of Public Instruction for actual administrative expenses incurred pursuant to subdivision (b).

(d) This section does not authorize the Superintendent of Public Instruction to abrogate any provision of a collective bargaining agreement that was entered into by a county office of education prior to the date upon which the Superintendent of Public Instruction assumed authority pursuant to subdivision (b).

SEC. 4. Section 35014 of the Education Code is amended and renumbered to read:

42131. (a) (1) Pursuant to the reports required by Section 42130, the governing board of each school district shall certify, in writing, within 45 days after the close of the period being reported, whether or not the school district is able to meet its financial obligations for the remainder of the fiscal year and, based on current forecasts, for the subsequent fiscal year. These certifications shall be based upon the board's assessment, on the basis of standards and criteria for fiscal stability adopted by the State Board of Education pursuant to Section 33127, of the district budget, as revised to reflect current information regarding the adopted state budget, district property tax revenues pursuant to Sections 95 to 100, inclusive, of the Revenue and Taxation Code, and ending balances for the preceding fiscal year as reported pursuant to Section 42100. The certifications shall be classified as positive, qualified, or negative, as prescribed by the Superintendent of Public Instruction for the purposes of determining subsequent actions by the Superintendent of Public Instruction, the Controller, or the county superintendent of schools, pursuant to subdivisions (b) and (c). These certifications shall be based upon the financial and budgetary reports required by Section 42130 but may include additional financial information known by the governing board to exist at the time of each certification. For purposes of this subdivision, a negative certification shall be assigned to any school district that likely will be unable to meet its financial obligations for the remainder of the fiscal year or for which existing expenditures practices jeopardize the ability of the district to meet its multiyear financial commitments.

(2) A copy of each certification and a copy of the report submitted to the governing board pursuant to Section 42130 shall be filed with the county superintendent of schools. If a county office of education receives a positive certification when it determines a negative or qualified certification should have been filed, the county superintendent of schools shall change the certification to negative or qualified, as appropriate, and, no later than 60 days after the close of the period being reported, shall provide notice of that action to the governing board of the school district and to the Superintendent of Public Instruction. No later than five days after a school district receives notice of a change by the county superintendent of schools in the district's certification to negative or qualified, the governing board of the district may submit an appeal to the Superintendent of

Public Instruction regarding the validity of that change, in accordance with the criteria applied to those designations pursuant to this subdivision. No later than 30 days after receiving that appeal, the Superintendent of Public Instruction shall determine the certification to be assigned to the district, and shall notify the school district governing board and the county superintendent of schools of that determination.

Copies of any certification in which the governing board is unable to certify unqualifiedly that these financial obligations will be met and a copy of the report submitted to the governing board pursuant to Section 42130 shall be sent to the Controller and the Superintendent of Public Instruction at the time of the certification, together with a completed transmittal form provided by the Superintendent of Public Instruction. Within 60 days after the close of the reporting period on all school district certifications that are classified as qualified or negative pursuant to this section, the appropriate county superintendent of schools shall submit to the Superintendent of Public Instruction and the Controller his or her comments on those certifications and report any action proposed or taken pursuant to subdivision (b).

(3) All reports and certifications required under this subdivision shall be in a format or on forms prescribed by the Superintendent of Public Instruction, and shall be based on standards and criteria for fiscal stability adopted by the State Board of Education pursuant to Section 33127.

(4) This subdivision shall not preclude the submission of additional budgetary or financial reports by the county superintendent of schools to the district governing board, or to the Superintendent of Public Instruction.

(b) As to any school district having a negative or qualified certification, the county superintendent of schools may do one or more of the following:

(1) Exercise the authority granted in Section 42637, in accordance with the provisions of that section.

(2) Direct the district to submit to the county superintendent of schools a proposal for addressing the fiscal conditions that resulted in the negative or qualified certification.

(3) As to any school district having a negative certification, exercise the authority granted in subdivision (c) of Section 42127.6, in accordance with the provisions of that section.

(c) Whenever a district governing board transmits to the Controller and the Superintendent of Public Instruction a qualified or negative certification as required by subdivision (a), the Superintendent of Public Instruction, in cooperation with the Controller's office, shall review the certification and the attached report together with the comments of the county superintendent of schools and any other pertinent information available to them, and shall review the actions proposed or taken by the county superintendent of schools pursuant to subdivision (b). After

consulting with the county superintendent of schools, the Superintendent of Public Instruction, in cooperation with the Controller's office, may take the following actions, or other actions as appropriate:

(1) With respect to qualified certifications, direct the county superintendent of schools to exercise his or her authority as prescribed in Section 42637.

(2) With respect to negative certifications, conduct an onsite review, direct the county superintendent of schools to exercise the authority granted in Section 42637 or in subdivision (c) of Section 42127.6, or direct the district to prepare alternative plans for resolving the identified fiscal problems.

(d) Within 60 days after the close of each reporting period, each county superintendent of schools shall report to the Controller and the Superintendent of Public Instruction as to whether the governing board of each of the school districts under his or her jurisdiction has submitted the certification required by subdivision (a). That report shall account for all districts under the jurisdiction of the county office of education and indicate the type of certification filed by each district.

(e) The Controller's office may conduct an audit or review of the fiscal condition of any district having a negative or qualified certification.

(f) The governing board of each school district that files a qualified or negative certification for the second report required for any fiscal year under Section 42130, or for which the second report is classified as qualified or negative by the county superintendent of schools, shall provide to the county superintendent of schools, the Controller, and the Superintendent of Public Instruction no later than June 1, a financial statement that projects the fund and cash balances of the district as of June 30. The governing boards of all other school districts are encouraged to develop a similar financial statement for use in developing the beginning fund balances of the district for the ensuing fiscal year.

(g) Any school district for which the county board of education serves as the governing board is not subject to subdivisions (a) to (f), inclusive, but is governed instead by the interim report, monitoring, and review procedures set forth in subdivision (j) of Section 1240 and in Article 2 (commencing with Section 1620) of Chapter 5 of Part 2.

SEC. 5. Section 35015 of the Education Code is repealed.

SEC. 6. Section 35035 of the Education Code is amended to read:

35035. The superintendent of each school district shall, in addition to any other powers and duties granted to or imposed upon him or her:

(a) Be the chief executive officer of the governing board of the district.

(b) Except in a district where the governing board has appointed or designated an employee other than the superintendent, or a deputy, or assistant superintendent, to prepare and submit a budget,

prepare and submit to the governing board of the district, at the time it may direct, the budget of the district for the next ensuing school year, and revise and take other action in connection with the budget as the board may desire.

(c) Subject to the approval of the governing board, assign all employees of the district employed in positions requiring certification qualifications, to the positions in which they are to serve. This power to assign includes the power to transfer a teacher from one school to another school at which the teacher is certificated to serve within the district when the superintendent concludes that the transfer is in the best interest of the district.

(d) Upon adoption, by the district board, of a district policy concerning transfers of teachers from one school to another school within the district, have authority to transfer teachers consistent with that policy.

(e) Determine that each employee of the district in a position requiring certification qualifications has a valid certificated document registered as required by law authorizing him or her to serve in the position to which he or she is assigned.

(f) Enter into contracts for and on behalf of the district pursuant to Section 39656.

(g) Submit financial and budgetary reports to the governing board as required by Section 42130.

SEC. 7. Section 39602 of the Education Code is amended to read:

39602. (a) The governing board of any school district, by resolution, may establish a fund or funds for losses, and payments, including, but not limited to, health and welfare benefits for its employees as defined by Section 53200 of the Government Code, school district property, any liability, and workers' compensation, in the county treasury for the purpose of covering the deductible amount under deductible types of insurance policies, losses or payments arising from self-insurance programs, or losses or payments due to noninsured perils. In the fund or funds shall be placed those sums, to be provided in the budget of the school district, that will create an amount that, together with investments made from the fund or funds, will be sufficient in the judgment of the governing board to protect the school district from those losses or to provide for payments on the deductible amount under deductible types of insurance policies, losses or payments arising from self-insurance programs, or losses or payments due to noninsured perils. Nothing in this section shall be construed to prohibit the governing board from providing protection against those losses or liability for the payment of claims partly by means of the fund or funds and partly by means of insurance written by acceptable insurers as provided in Section 39601.

The fund or funds shall be considered as separate and apart from all other funds of the school district, and the balance therein shall not be considered to be part of the working cash of the school district in compiling annual budgets.

Warrants may be drawn on or transfers made from the fund or funds so created only to reimburse or indemnify the school district for losses as herein specified, and for the payment of claims, administrative costs, and related services, and to provide for deductible insurance amounts and purchase of excess insurance. The warrants or transfers shall be within the purpose of the fund or funds as established by resolution of the governing board.

The cash placed in the fund or funds may be invested and reinvested by the county treasurer, with the advice and consent of the governing board of the school district, in securities that are legal investments for surplus county funds in this state. The income derived from the investments, together with interest earned on uninvested funds, shall be considered revenue of, and be deposited in, the fund. The cost of contracts or services authorized by this section are appropriate charges against the respective fund.

The governing board may contract for investigative, administrative, and claims adjustment services relating to claims. The contract may provide that the contracting firm may reject, settle, compromise, and approve claims against the district, or its officers or employees, within the limits and for amounts that the governing board may specify, and may provide that the contracting firm may execute and issue checks in payment of those claims, which checks shall be payable only from a trust account that may be established by the governing board. Funds in the trust account established by the board pursuant to this section shall not exceed a sum that is sufficient, as determined by the governing board to provide for the settlement of claims for a 30-day period. The rejection or settlement and approval of a claim by the contracting firm in accordance with the terms of the contract shall have the same effect as would the rejection or settlement and approval of such a claim by the governing board.

The contract may also provide that the contracting firm may employ legal counsel, subject to terms and limitations that the board may prescribe, to advise the contracting firm concerning the legality and advisability of rejecting, settling, compromising, and paying claims referred to the contracting firm by the board for investigation and adjustment, or to represent the board in litigation concerning the claims. The compensation and expenses of the attorney for services rendered to the board shall be an appropriate charge against the appropriate fund.

The contract provided for in this section may contain other terms and conditions that the governing board may consider necessary or desirable to effectuate the board's self-insured programs.

In lieu of, or in addition to, contracting for the services described in this section, the governing board may authorize an employee or employees to perform any or all of the services and functions for which the board may contract under the provisions of this section.

(b) As used in this section:

(1) "Firm" includes a person, corporation, or other legal entity,

including a county superintendent of schools.

(2) "Governing boards" includes governing boards of school districts and county superintendents of schools.

(3) "School district" includes a county superintendent of schools who may participate in or administer insurance or self-insurance programs for the county office of education or for one or more school districts.

(c) A county superintendent of schools may participate in or administer insurance for one or more school districts pursuant to this section or for one or more community college districts pursuant to Section 81602, for any combination of school districts and community college districts pursuant to this section and Section 81602.

(d) Prior to funding health and welfare benefits pursuant to this section, the school district shall secure the services of an actuary enrolled under subtitle C of Title III of the federal Employee Retirement Income Security Act of 1974, to provide actuarial evaluations of the future annual costs of those benefits. The future annual costs as determined by the actuary shall be made public at a public meeting at least two weeks prior to the commencement of funding health and welfare benefits pursuant to this section.

(e) Upon commencing the funding of health and welfare benefits pursuant to this section, the school district shall secure the services of an actuary enrolled as described in subdivision (d) to complete, every three years, an actuarial evaluation of the annual costs of those benefits. A copy of the results of that evaluation shall be submitted by the district to the county superintendent of schools.

SEC. 8. Section 39603 of the Education Code is amended to read:

39603. Nothing in this code shall be construed to prohibit two or more school districts from exercising, through a joint powers agreement made pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, the powers prescribed in Section 39602 in accordance with the terms and conditions set forth in that section and in Section 39601.

SEC. 9. Section 41320.1 of the Education Code is amended to read:

41320.1. Acceptance by the district of the apportionments made pursuant to Section 41320 shall constitute agreement by the district to all of the following conditions:

(a) The Superintendent of the Public Instruction shall appoint a trustee who shall have recognized expertise in management and finance, and who shall be bonded. The expenses incurred by the trustee and the costs of the bonding shall be borne by the district. The superintendent shall establish the terms and conditions of the employment, including the remuneration of the trustee. The trustee shall serve at the pleasure of, and report directly to, the superintendent. The trustee shall serve until the loan called for by this section is repaid, the district has adequate fiscal systems and controls in place, and the superintendent has determined that the district's future compliance with the fiscal plan approved for the

district under Section 41320 is probable. Before the district repays the loan, including interest, the recipient of the loan shall select an auditor from a list established by the superintendent and the Controller to conduct an audit of its fiscal systems. If the fiscal systems are deemed to be inadequate, the superintendent may retain the trustee until the deficiencies are corrected. The cost of this audit and any additional cost of the trustee shall be borne by the district.

Notwithstanding any other provision of law, all reports submitted to the trustee shall be public records.

(b) The trustee appointed by the superintendent shall monitor and review the operation of the district. During the period of his or her service, the trustee may stay or rescind any action of the local district governing board that, in the judgment of the trustee, may affect the financial condition of the district. The Superintendent of Public Instruction may establish timelines and prescribe formats for reports and other materials to be used by the trustee to monitor and review the operations of the district. The trustee shall approve or reject all reports and other materials required from the district as a condition of receiving the apportionment. The superintendent, upon the recommendation of the trustee, may reduce any apportionment to the district in an amount up to two hundred dollars ($200) per day for each late or unacceptable report or other material required under Part 24 (commencing with Section 41000) of the Education Code, and shall report to the Legislature any failure of the district to comply with the requirements of this section. If the Superintendent of Public Instruction determines, at any time, that the fiscal plan approved for the district under Section 41320 is unsatisfactory, he or she may modify the plan as necessary, and the district shall comply with the plan as modified.

(c) At the request of the Superintendent of Public Instruction, the Controller shall transfer to the State Department of Education, from any apportionment to which the district would otherwise have been entitled pursuant to Section 42238, the amount necessary to pay the expenses incurred by the trustee, the costs of the trustee's bonding, and any associated costs incurred by the county superintendent of schools.

(d) For the fiscal year in which the apportionments are disbursed and each year thereafter, the Controller, or his or her designee, shall cause an audit to be conducted of the books and accounts of the district, in lieu of the audit required by Section 41020. At the Controller's discretion, the audit may be conducted by the Controller, his or her designee, or an auditor selected by the district and approved by the Controller. The costs of these audits shall be borne by the district. These audits shall be required until the Controller determines, in consultation with the Superintendent of Public Instruction, that the district is financially solvent, but in no event earlier than one year following the implementation of the plan or later than the time the apportionment made is repaid, including

interest.

(e) For all purposes of errors and omissions liability insurance, the trustee appointed pursuant to this section shall be deemed to be an employee of the local education agency to which he or she is assigned.

SEC. 10. Article 2.5 (commencing with Section 41325) is added to Chapter 3 of Part 24 of the Education Code, to read:

Article 2.5. Conditions on Emergency Apportionments

41325. (a) The Legislature finds and declares that when a school district becomes insolvent and requires an emergency apportionment from the state in the amount designated in this article, it is necessary that the Superintendent of Public Instruction assume control of the district in order to ensure the district's return to fiscal solvency.

(b) It is the intent of the Legislature that the Superintendent of Public Instruction, operating through an appointed administrator, do all of the following:

(1) Implement substantial changes in the district's fiscal policies and practices, including, if necessary, the filing of a petition under Chapter 9 of the federal Bankruptcy Act for the adjustment of indebtedness.

(2) Revise the district's educational program to reflect realistic income projections, in response to the dramatic effect of the changes in fiscal policies and practices upon educational program quality and the potential for the success of all pupils.

(3) Encourage all members of the school community to accept a fair share of the burden of the district's fiscal recovery.

(4) Consult, for the purposes described in this subdivision, with the school district governing board, the exclusive representatives of the employees of the district, parents, and the community.

(5) Consult with and seek recommendations from the county superintendent of schools for the purposes described in this subdivision.

41326. (a) Notwithstanding any other provision of this code, the acceptance by a school district of an apportionment made pursuant to Section 41320 that exceeds an amount equal to 200 percent of the amount of the reserve recommended for that district under the standards and criteria adopted pursuant to Section 33127 shall constitute agreement by the district to the conditions set forth in this article. Prior to applying for an emergency apportionment in the amount identified in this subdivision, a school district governing board shall discuss the need for that apportionment at a regular or special meeting of the governing board and, at that meeting, shall receive testimony regarding the apportionment from parents, exclusive representatives of employees of the district, and other members of the community. For purposes of this article, "qualifying school district" means a school district that accepts a loan as

described in this subdivision.

(b) The Superintendent of Public Instruction shall assume all the legal rights, duties, and powers of the governing board of a qualifying school district. The Superintendent of Public Instruction may appoint an administrator to act on his or her behalf in exercising the authority described in this subdivision. The state-appointed administrator shall serve under the direction and supervision of the Superintendent of Public Instruction until terminated by the Superintendent of Public Instruction at his or her discretion. The state-appointed administrator shall have recognized expertise in management and finance, and shall be bonded.

(c) For the period of time during which the Superintendent of Public Instruction exercises the authority described in subdivision (b), the governing board of the qualifying school district shall serve as an advisory body reporting to the state-appointed administrator, in which capacity no member of the governing board shall be paid or entitled to any stipend, benefits, or other compensation.

(d) Notwithstanding Section 35031 or any other provision of law, the employment of any district superintendent of schools, or deputy, associate, or assistant superintendent of schools, or other person employed in an equivalent capacity, whose duties include overseeing, managing, or otherwise directing the fiscal and budgetary operations of the school district, and who is employed by a school district under a contract of employment signed or renewed after the effective date of this article may be terminated by the state-appointed administrator, in accordance with appropriate notice and hearing procedures, if the employee fails to document, to the satisfaction of the state-appointed administrator, that prior to the date of that acceptance he or she either advised the governing board of the district, or his or her superior, that actions contemplated or taken by the governing board could result in the fiscal insolvency of the district, or took other appropriate action to avert that fiscal insolvency.

(e) The authority of the Superintendent of Public Instruction, and the state-appointed administrator, under this section shall continue until all of the following occur:

(1) Two complete fiscal years have elapsed following the district's acceptance of a loan as described in subdivision (a), or, at any time after one complete fiscal year has elapsed following that acceptance, the state-appointed administrator determines, and so notifies the Superintendent of Public Instruction, that future compliance by the school district with the recovery plans approved pursuant to paragraph (2) is probable.

(2) The Superintendent of Public Instruction has approved all of the recovery plans referred to in subdivision (a) of Section 41327.

(3) The state-appointed administrator certifies that all necessary collective bargaining agreements have been negotiated and ratified, and that the agreements are consistent with the terms of the recovery plans.

(4) The district has completed all reports required by the Superintendent of Public Instruction.

(5) The Superintendent of Public Instruction determines that future compliance by the school district with the recovery plans approved pursuant to paragraph (2) is probable.

(f) When the conditions stated in subdivision (e) have been met, the school district governing board shall regain all of its legal rights, duties, and powers, except for the powers held by the trustee provided for pursuant to Article 2 (commencing with Section 41320). The Superintendent of Public Instruction shall then appoint a trustee under Section 41320.1 to monitor and review the operations of the district until the conditions of subdivision (b) of that section have been met.

(g) Notwithstanding subdivision (f), in the event that the district violates any provision of the recovery plans approved by the Superintendent of Public Instruction pursuant to this article, the superintendent may reassume, either directly or through an administrator appointed in accordance with this section, all of the legal rights, duties, and powers of the governing board of the district. The Superintendent of Public Instruction shall return to the school district governing board all of its legal rights, duties, and powers reassumed under this subdivision when he or she determines that future compliance with the approved recovery plans is probable, or after a period of one year, whichever occurs later.

(i) Article 2 (commencing with Section 41320) shall apply except as otherwise specified in this article.

(j) It is the intent of the Legislature that the legislative budget subcommittees annually conduct a review of each qualifying school district that includes an evaluation of the financial condition of the district, the impact of the recovery plans upon the district's educational program, and the efforts made by the state-appointed administrator to obtain input from the community and the governing board of the district.

41327. (a) In accordance with timelines, instructions, and a format established by the Superintendent of Public Instruction, the state-appointed administrator shall prepare or obtain the following reports and plans:

(1) A management review and recovery plan.

(2) A financial recovery plan. The financial recovery plan shall include a plan to repay to the state any and all loans owed by the district. Pursuant to the financial recovery plan, the repayment by the district of any state loans shall comply with all of the following, notwithstanding any provision of Article 2 (commencing with Section 41320):

(A) The loan or loans shall be repaid over a period of no more than 10 years following the initial disbursement of moneys under a loan as described in subdivision (a) of Section 41326. The repayment of the loan or loans shall commence not later than the fiscal year following the year in which the loan described in that subdivision is

made.

(B) Interest shall accrue on the loan or loans as of the date the funds are received, at the average annual investment rate of the pooled investment account.

(3) During the period of service by the state-appointed administrator, an annual report on the financial condition of the district, including, but not necessarily limited to, all of the following information:

(A) Specific actions taken to reduce district expenditures or increase income to the district, and the amount of the resulting cost savings and increases in income.

(B) A copy of the adopted district budget for the current fiscal year.

(C) The amount of the district budgetary reserve.

(D) The status of employee contracts.

(E) Any obstacles to the implementation of the recovery plans described in paragraphs (1) and (2).

(b) Each of the reports or plans required under this section, or under any other provision of law that requires the district to prepare reports or plans, shall be submitted to the Superintendent of Public Instruction for approval, after his or her consideration of comments and recommendations of the county superintendent of schools. The Superintendent of Public Instruction may accept and approve, for the purposes of this section, any reports or plans that were prepared by or for the district prior to the district's acceptance of a loan as described in subdivision (a) of Section 41326.

(c) With the approval of the Superintendent of Public Instruction, the state-appointed administrator shall have authority to enter into agreements on behalf of the district and, subject to any contractual obligation of the district, to change any existing district rules, regulations, policies, or practices as necessary for the effective implementation of the recovery plans referred to in subdivision (a).

41328. (a) All costs associated with implementing the provisions of this article, including, as to a loan as described in subdivision (a) of Section 41326, the provisions of Article 2 (commencing with Section 41320), shall be borne by the district.

(b) The state-appointed administrator shall be deemed an employee of the qualifying school district for the purposes of all errors and omissions policies and workers compensation benefits.

SEC. 11. Section 42100 of the Education Code is amended to read:

42100. On or before September 15, the governing board of each school district shall approve, on a form prescribed by the Superintendent of Public Instruction, an annual statement of all receipts and expenditures of the district for the preceding fiscal year and shall file the statement with the county superintendent of schools. On or before October 15, the county superintendent of schools shall verify the mathematical accuracy of the statement and shall transmit a copy to the Superintendent of Public Instruction.

SEC. 12. Section 42102 of the Education Code is repealed.

SEC. 13. Section 42103 of the Education Code is amended to read:

42103. The governing board of each school district shall hold a public hearing on the proposed budget in a district facility, or some other place conveniently accessible to the residents of the district. The public hearing shall be held any day on or before the date specified for this purpose in subdivision (f) or (h), respectively, of Section 42127, but not less than three working days following availability of the proposed budget for public inspection. At the hearing any resident in the district may appear and object to the proposed budget or any item in the budget.

The hearing may be concluded on the proposed budget when there are no requests for further hearing on file, and shall be concluded no later than the date specified for this purpose in subdivision (f) or (h), respectively, of Section 42127. The budget shall not be finally adopted by the governing board of the district until after the public hearing has been held.

The proposed budget shall show expenditures, cash balances, and all revenues as required to be tabulated in Sections 42122 and 42123, and also shall include an estimate of those figures, unaudited, for the preceding fiscal year. In addition, any tax statement submitted by the district governing board pursuant to subdivision (a) of Section 42127, any district tax requirement computed pursuant to subdivision (b) of Section 42127 for the school year to which the proposed budget is intended to apply, and any recommendations made by the county superintendent pursuant to subdivision (d) of Section 42127 shall be made available by the district for public inspection in a facility of the district or in some other place conveniently accessible to residents of the district.

Notification of dates and location or locations at which the proposed budget may be inspected by the public and the date, time, and location of the public hearing on the proposed budget shall be published by the county superintendent of schools in a newspaper of general circulation in the district, or if there is no such newspaper, then in any newspaper of general circulation in the county, at least three days prior to the availability of the proposed budget for public inspection. The publication of the dates and location shall occur no earlier than 45 days prior to the final date for the hearing as specified in subdivision (f) or (h), respectively, of Section 42127, nor later than 15 days prior to that date, but not less than 10 days prior to the date set for hearing. The cost of the publication shall be a legal and proper charge against the school district for which the publication is made.

SEC. 14. Section 42120 of the Education Code is repealed.

SEC. 15. Section 42127 of the Education Code is amended to read:

42127. (a) On or before July 1 of each year, the governing board of each school district shall adopt a budget. No later than five days after that adoption or by July 1, whichever occurs first, the governing board shall file that budget with the county superintendent of schools. That budget, and supporting data, shall be maintained and made available for public review. If the governing board of the

district does not want all or a portion of the property tax requirement levied for the purpose of making payments for the interest and redemption charges on indebtedness as described in paragraph (1) or (2) of subdivision (b) of Section 1 of Article XIII A of the California Constitution, the budget shall include a statement of the amount or portion for which a levy shall not be made.

(b) The county superintendent of schools may accept changes in any statement included in the budget, pursuant to subdivision (a), of the amount or portion for which a property tax levy shall not be made. The county superintendent or the county auditor shall compute the actual amounts to be levied on the property tax rolls of the district for purposes that exceed apportionments to the district pursuant to Sections 95 to 100, inclusive, of the Revenue and Taxation Code. Each school district shall provide all data needed by the county superintendent or the county auditor to compute the amounts. On or before August 15, the county superintendent shall transmit the amounts so computed to the county auditor who shall compute the tax rates necessary to produce the amounts. On or before September 1, the county auditor shall submit the rate so computed to the board of supervisors for adoption.

(c) The county superintendent of schools shall do all of the following:

(1) Examine the adopted budget to determine whether it complies with the standards and criteria adopted by the State Board of Education pursuant to Section 33127 for application to final local educational agency budgets. The superintendent shall identify, if necessary, any technical corrections that must be made to bring the budget into compliance with those standards and criteria.

(2) Determine whether the adopted budget will allow the district to meet its financial obligations during the fiscal year and is consistent with a financial plan that will enable the district to satisfy its multiyear financial commitments.

(d) On or before August 15, the county superintendent of schools shall approve or disapprove the adopted budget for each school district. If, pursuant to the review conducted pursuant to subdivision (c), the superintendent determines that the adopted budget for a school district does not satisfy paragraph (1) or (2) of that subdivision, he or she shall disapprove the budget and, no later than August 15, transmit to the governing board of the school district, in writing, his or her recommendations regarding revision of the budget and the reasons for those recommendations. The county superintendent of schools may assign a fiscal advisor to assist the district to develop a budget in compliance with those revisions. In addition, the county superintendent of schools may appoint a committee to examine and comment on the superintendent's review and recommendations, subject to the requirement that the committee report its findings to the superintendent no later than August 20.

(e) No later than August 20, the county superintendent of schools

shall submit a report to the Superintendent of Public Instruction identifying all school districts for which budgets have been disapproved, including a copy of the written response transmitted to each of those districts pursuant to subdivision (d).

(f) On or before September 1, the governing board of the school district shall revise the adopted budget to reflect changes in projected income or expenditures subsequent to July 1, and to include any response to the recommendations of the county superintendent of schools, shall adopt the revised budget, and shall file the revised budget with the county superintendent of schools. Prior to revising the budget, the governing board shall hold a public hearing regarding the proposed revisions, to be conducted in accordance with Section 42103. The revised budget, and supporting data, shall be maintained and made available for public review.

(g) The county superintendent of schools shall examine the revised budget to determine whether it complies with the standards and criteria adopted by the State Board of Education pursuant to Section 33127 for application to final local educational agency budgets and, no later than September 15, shall approve or disapprove the revised budget. If the county superintendent of schools disapproves the budget, he or she shall call for the formation of a budget review committee pursuant to Section 42127.1.

(h) Notwithstanding any other provision of this section, the budget review for a school district shall be governed by paragraphs (1), (2), and (3) of this subdivision, rather than by subdivisions (f) and (g), if the governing board of the school district so elects, and notifies the Superintendent of Public Instruction in writing of that decision, no later than October 31 of the immediately preceding calendar year. On or before July 1, the governing board of a school district for which the budget review is governed by this subdivision, rather than by subdivisions (f) and (g), shall conduct a public hearing regarding its proposed budget in accordance with Section 42103.

(1) In the event of the disapproval of the adopted budget of a school district pursuant to subdivision (d), on or before September 1, the governing board of the school district, in conjunction with the county superintendent of schools, shall review the superintendent's recommendations at a regular meeting of the governing board and respond to those recommendations. The response shall include any revisions to the adopted budget and other proposed actions to be taken, if any, as a result of those recommendations.

(2) No later than five working days after receiving the response required under paragraph (1), the county superintendent of schools shall review that response and either approve or disapprove the budget. If the county superintendent of schools disapproves the budget, he or she shall call for the formation of a budget review committee pursuant to Section 42127.1.

(3) Not later than 45 days after the Governor signs the annual Budget Act, the school district shall make available for public review

any revisions in revenues and expenditures that it has made to its budget to reflect the funding made available by that Budget Act.

(h) Any school district for which the county board of education serves as the governing board is not subject to subdivisions (c) to (g), inclusive, but is governed instead by the budget procedures set forth in Section 1622.

SEC. 16. Section 42127.1 of the Education Code is amended to read:

42127.1. (a) Pursuant to subdivision (f) of Section 42127, upon the disapproval of a school district budget by the county superintendent, the county superintendent shall call for the formation of a budget review committee.

(b) The budget review committee shall be composed of three persons selected by the governing board of the school district from a list of candidates provided to the governing board by the Superintendent of Public Instruction. The list of candidates shall be composed of persons who have expertise in the management of a school district or county office of education. Their experience shall include, but not be limited to, the fiscal and educational aspects of local educational agency management.

(c) Notwithstanding subdivision (b) or any other provision of this article, with the approval of the Superintendent of Public Instruction and the governing board of the school district, the county superintendent of schools may select and convene a regional review committee, consisting of persons having the expertise described in that subdivision. The regional review committee shall operate in place of the budget review committee, in accordance with the provisions of this article governing budget review committees.

(d) Members of the committee shall be reimbursed by the State Department of Education for their services and associated expenses while on official business at rates established by the State Board of Education.

SEC. 17. Section 42127.2 of the Education Code is amended to read:

42127.2. (a) The district governing board shall, no later than five working days after the receipt of a candidate list from the Superintendent of Public Instruction pursuant to Section 42127.1, select a budget review committee, and the Superintendent of Public Instruction shall convene the committee no later than five working days following that selection. If the governing board fails to select a committee within the period of time permitted by this subdivision, the Superintendent of Public Instruction instead shall select and convene the budget review committee no later than 10 working days after the district's receipt of the candidate list.

(b) No later than October 31, the budget review committee shall review the proposed budget of the district and the underlying fiscal policies of the district and transmit to the Superintendent of Public Instruction, the county superintendent of schools, and the district governing board either of the following:

(1) The recommendation that the school district budget be approved.

(2) A report disapproving the school district budget and setting forth recommendations for revisions to the school district budget that would enable the district to meet its financial obligations both in the current fiscal year and with regard to the district's multiyear financial commitments.

(c) Upon request of the budget review committee, the Superintendent of Public Instruction may extend the deadline set forth in subdivision (b) for a period of not and more than 15 working days.

(d) The Superintendent of Public Instruction shall establish criteria and procedures governing the performance by budget review committees of their duties under this section.

(e) Upon request of the county superintendent of schools, the Controller's office may conduct an audit or review of the fiscal condition of the school district in order to assist a budget review committee or regional review committee for the purposes of this section.

SEC. 18. Section 42127.3 of the Education Code is amended to read:

42127.3. (a) If the budget review committee established pursuant to Sections 42127.1 and 42127.2 recommends approval of the school district budget, the county superintendent of schools shall accept the recommendation of the budget review committee and approve the budget.

(b) If the budget review committee established pursuant to Sections 42127.1 and 42127.2 disapproves the school district budget, the school district governing board, no later than five working days after receipt of the report described in paragraph (2) of subdivision (b) of Section 42127.2, may submit a response to the Superintendent of Public Instruction, including any revisions to the adopted final budget and any other proposed actions to be taken as a result of the recommendations of the budget review committee. Based upon the recommendations of the budget review committee, and any response to those recommendations provided by the school district governing board, the Superintendent of Public Instruction shall either approve or disapprove the budget. If the Superintendent of Public Instruction disapproves the budget, he or she shall notify the school district governing board in writing of the reasons for that disapproval and, for the remainder of the current fiscal year, the county superintendent of schools shall do all of the following:

(1) No later than November 30, develop and adopt, in consultation with the Superintendent of Public Instruction and the school district governing board, a fiscal plan and budget that will govern the district and will allow the district to meet its financial obligations, both in the current fiscal year and with regard to the district's multiyear financial commitments. The governing board of the district shall govern the operation of the district for the current

fiscal year in accordance with that adopted budget.

(2) Cancel purchase orders, prohibit the issuance of nonsalary warrants, and otherwise stay or rescind any action that is inconsistent with the budget adopted pursuant to paragraph (1). The county superintendent of schools shall inform the school district governing board in writing of his or her justification for any exercise of authority under this paragraph.

(3) Monitor and review the operation of the district.

(c) The school district shall pay reasonable fees charged by the county superintendent of schools for actual administrative expenses incurred pursuant to subdivision (b). The Superintendent of Public Instruction shall develop, and distribute to affected school districts and county offices of education, advisory guidelines regarding the appropriate amount of any fees charged pursuant to this subdivision.

(d) This section shall not be construed to authorize the county superintendent of schools to abrogate any provision of a collective bargaining agreement that was entered into by a school district prior to the date upon which the county superintendent of schools disapproved the budget of the school district pursuant to subdivision (b).

(e) As necessary for the purposes of subdivision (b), the county superintendent of schools may request funding or other assistance from the Superintendent of Public Instruction as necessary to obtain additional information regarding the district's budget or operations through a financial or management review of the district, a cash-flow projection for the district, or other appropriate means. Any contract entered into by a county superintendent of schools for the purposes of this subdivision is subject to the approval of the Superintendent of Public Instruction.

SEC. 19. Section 42127.4 of the Education Code is amended to read:

42127.4. Until a school district receives approval of its budget under this article, the school district shall continue to operate on the basis of whichever of the following budgets contains a lower total spending authority:

(a) The last budget adopted or revised by the governing board of the school district for the prior fiscal year.

(b) The unapproved budget for the current fiscal year, as adopted and revised by the governing board of the school district.

SEC. 20. Section 42127.6 is added to the Education Code, to read:

42127.6. (a) The county superintendent of schools shall monitor the operation of each school district pursuant to the budget adopted for that district. If the county superintendent of schools determines that a school district will be unable to meet its financial obligations for the current or subsequent fiscal year, he or she shall notify the school district governing board in writing of that determination, and of the basis for the determination. In addition, subsequent to that determination, the county superintendent of schools may do either or both of the following:

(1) Assign a fiscal adviser to assist the district.

(2) Conduct a study of the district's finances and recommend to the governing board of the school district actions to enable the district to meet those obligations.

(b) Any contract entered into by a county superintendent of schools for the purposes of subdivision (a) is subject to the approval of the Superintendent of Public Instruction.

(c) If, subsequent to the receipt of recommendations provided pursuant to paragraph (2) of subdivision (a), the governing board fails to take appropriate action to enable the district to meet its financial obligations, the county superintendent shall so notify the Superintendent of Public Instruction. Subsequent to that notification, the county superintendent of schools, in consultation with the Superintendent of Public Instruction, may do one or more of the following for the remainder of the current fiscal year:

(1) Request additional information regarding the district's budget or operations.

(2) Develop and impose, in consultation with the Superintendent of Public Instruction and the school district governing board, revisions to the school district budget that will enable the district to meet its financial obligations.

(3) Stay or rescind any action that is inconsistent with any revision adopted pursuant to paragraph (2). The county superintendent of schools shall inform the school district governing board in writing of his or her justification for any exercise of authority under this paragraph.

(d) This section does not authorize the county superintendent of schools to abrogate any provision of a collective bargaining agreement that was entered into by a school district prior to the date upon which the county superintendent of schools assumed authority pursuant to subdivision (b).

(e) The school district shall pay reasonable fees charged by the county superintendent of schools for actual administrative expenses incurred pursuant to subdivision (c). The Superintendent of Public Instruction shall develop, and distribute to affected school districts and county offices of education, advisory guidelines regarding the appropriate amount of any fees charged pursuant to this subdivision.

(f) Notwithstanding Section 42647 or 42650, or any other provision of law, a county treasurer shall not honor any warrant when, pursuant to Sections 42127 to 42127.6, inclusive, the county superintendent of schools or the Superintendent of Public Instruction, as appropriate, has disapproved that warrant, or has disapproved the order on school district funds for which that warrant was prepared.

SEC. 21. Section 42127.8 is added to the Education Code, to read:

42127.8. (a) The governing board provided for in subdivision (b) shall establish a unit to be known as the County Office Fiscal Crisis and Management Assistance Team. The team shall consist of persons having extensive experience in school district budgeting, accounting,

data processing, risk management, food services, pupil transportation, purchasing and warehousing, facilities maintenance and operation, personnel administration, organization, and staffing. The Superintendent of Public Instruction shall appoint one employee of the State Department of Education to serve on the unit. The unit shall be operated under the immediate direction of an appropriate county office of education selected jointly, in response to an application process, by the Superintendent of Public Instruction and the Secretary of Child Development and Education.

(b) The unit established under subdivision (a) shall be selected and governed by an eleven-member governing board consisting of one representative chosen by the California Association of County Superintendents of Schools from each of the 10 county service regions designated by the association, and one representative from the State Department of Education chosen by the Superintendent of Public Instruction.

(c) The Superintendent of Public Instruction may request the unit to provide the assistance described in subdivision (b) of Section 1624, Section 1630, Section 33132, subdivision (b) of Section 42127.3, subdivision (c) of Section 42127.6, and Section 42127.9, and to review the fiscal and administrative condition of any county office of education.

(d) In addition to the functions described in subdivision (c), the unit shall provide management assistance at the request of any school district or county office of education. Each district or county office of education receiving that assistance shall be required to pay the onsite personnel costs and travel costs incurred by the unit for that purpose, pursuant to rates determined by the governing board established under subdivision (b). The governing board annually shall distribute rate information to each school district and county office of education.

(e) The governing board shall reserve not less than 25 percent, nor more than 50 percent, of its revenues each year for expenditure for the costs of contracts and professional services as management assistance to school districts or county offices of education in which the board determines a fiscal emergency to exist.

(f) The governing board established under subdivision (b) may levy an annual assessment against each county office of education that elects to participate under this section in an amount not to exceed twenty cents ($0.20) per unit of total average daily attendance for all school districts within the county. The revenues collected pursuant to that assessment shall be applied to the expenses of the unit.

(g) The governing board established under subdivision (b) may pay to the State Department of Education, from any available funds, a reasonable amount to reimburse the department for actual administrative expenses incurred in the review of the budgets and fiscal conditions of school districts and county offices of education.

SEC. 22. Section 42127.9 is added to the Education Code, to read:

42127.9. (a) No later than five days after a school district receives notice of any change or changes adopted by the county superintendent of schools in the district's budget pursuant to subdivision (b) of Section 42127.3, subdivision (c) of Section 42127.6, or subdivision (b) of Section 42131, the governing board of the district may submit an appeal to the Superintendent of Public Instruction, based upon the contention that the change or changes would do one or more of the following:

(1) Exceed the financial or program changes necessary to allow the district to meet its financial obligations in the current fiscal year and with regard to its multiyear financial commitments. It is the intent of the Legislature that any change or changes adopted by the county superintendent of schools in a school district's budget minimize, to the extent possible, any impact upon the educational program of the district.

(2) Require reductions that are unnecessary in view of other reductions that are proposed by the governing board of the district and that reasonably can be expected to be realized.

(3) Make one or more changes in the district's operations that are inconsistent with any provision of state or federal law.

(b) No later than five days after receiving that appeal, the Superintendent of Public Instruction shall deny or uphold the appeal. If the appeal is denied, the district shall implement the change or changes adopted by the county superintendent of schools. If the appeal is upheld, the Superintendent of Public Instruction may revise the change or changes adopted by the county superintendent of schools or issue guidelines governing the manner in which the governing board of the district or the county superintendent of schools shall be required to change the district budget.

SEC. 23. Article 3 (commencing with Section 42130) is added to Chapter 6 of Part 24 of the Education Code, to read:

Article 3. Financial Reports and Certifications

42130. The superintendent of each school district shall, in addition to any other powers and duties granted to or imposed upon him or her, submit two reports to the governing board of the district during each fiscal year. The first report shall cover the financial and budgetary status of the district for the period ending October 31. The second report shall cover the period ending January 31. Both reports shall be approved by the district governing board no later than 45 days after the close of the period being reported. All reports required by this subdivision shall be in a format or on forms prescribed by the Superintendent of Public Instruction, and shall be based on standards and criteria for fiscal stability adopted by the State Board of Education pursuant to Section 33127. The reports, and supporting data, shall be maintained and made available by the school district for public review.

SEC. 24. Section 42132 is added to the Education Code, to read:

42132. The governing board of each school district annually, no later than September 15, shall adopt a resolution to identify, pursuant to Division 9 (commencing with Section 7900) of Title 1 of the Government Code, the estimated appropriations limit for the district for the current fiscal year and the actual appropriations limit for the district for the preceding fiscal year. That resolution shall be adopted at a regular or special meeting of the governing board. The documentation used in the identification of the appropriations limits shall be made available to the public not less than 15 days prior to the date of that meeting.

SEC. 25. Section 42133 is added to the Education Code, to read:

42133. (a) A school district that has a qualified or negative certification in any fiscal year may not issue, in that fiscal year or in the next succeeding fiscal year, certificates of participation, tax anticipation notes, revenue bonds, or any other debt instruments that do not require the approval of the voters of the district, nor may the district cause an information report regarding the debt instrument to be submitted pursuant to subdivision (e) of Section 149 of Title 26 of the United States Code, unless the county superintendent of schools determines, pursuant to criteria established by the Superintendent of Public Instruction, that the district's repayment of that indebtedness is probable. A school district is deemed to have a qualified or negative certification for purposes of this subdivision if, pursuant to this article, it files that certification or the county superintendent of schools classifies the certification for that fiscal year to be qualified or negative.

(b) A county office of education that has a qualified or negative certification in any fiscal year may not issue, in that fiscal year or in the next succeeding fiscal year, certificates of participation, tax anticipation notes, revenue bonds, or any other debt instruments not requiring the approval of the voters of the district, nor may the county office of education cause an information report regarding the debt instrument to be submitted pursuant to subdivision (e) of Section 149 of Title 26 of the United States Code, unless the Superintendent of Public Instruction determines that the repayment of that indebtedness by the county office of education is probable. A county office of education is deemed to have a qualified or negative certification for purposes of this subdivision if, pursuant to this article, it files that certification or the Superintendent of Public Instruction classifies the certification for that fiscal year to be qualified or negative. For purposes of this subdivision, "county office of education" includes a school district that is governed by a county board of education.

(c) No later than March 31, 1992, the Superintendent of Public Instruction shall develop and adopt criteria and standards to govern the determination to be made under subdivisions (a) and (b).

SEC. 26. Section 42134 is added to the Education Code, to read:

42134. The Superintendent of Public Instruction shall publish annually a multiyear projection of the revenues that will be available

to school districts and county offices of education from state and local sources, for use by school districts and county offices of education in determining the multiyear financial condition of those entities for the purposes of this article and Article 2. That projection shall be based on revenue forecasts issued by the Department of Finance, the Legislative Analyst, or the Commission on State Finance, shall be published in a form that may easily be used by school districts and county offices of education, and shall be made available to those entities.

SEC. 27. Section 3547.5 is added to the Government Code, to read:

3547.5. Before a public school employer enters into a written agreement with an exclusive representative covering matters within the scope of representation, the major provisions of the agreement, including, but not limited to, the costs that would be incurred by the public school employer under the agreement for the current and subsequent fiscal years, shall be disclosed at a public meeting of the public school employer in a format established for this purpose by the Superintendent of Public Instruction.

SEC. 28. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 29. (a) The sum of one million dollars ($1,000,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for the 1991–92 fiscal year for apportionment as follows:

(1) The sum of five hundred thousand dollars ($500,000) for apportionment to county superintendents of schools to fund any new program or higher level of service required by any provisions of this act that make additions or amendments to Article 2 (commencing with Section 42120) of Chapter 6 of Part 24 of the Education Code. That apportionment shall be made on the basis of an equal amount per unit of average daily attendance for all school districts within each county, except that the Superintendent of Public Instruction shall establish a minimum apportionment amount in order to ensure that county superintendents of schools in counties having a total school district average daily attendance that is substantially lower than average will receive adequate funding to carry out their responsibilities under that article.

(2) The sum of five hundred thousand dollars ($500,000) for

apportionment to county offices of education to meet the costs of participation under Section 42127.8 of the Education Code.

(b) It is the intent of the Legislature that, in the 1992–93 fiscal year and each fiscal year thereafter, funding be made available in an amount that is adequate for the purposes described in subdivision (a).

CHAPTER 1214

An act to add and repeal Chapter 3.6 (commencing with Section 15379.20) of Part 6.7 of Division 3 of Title 2 of the Government Code, relating to commerce.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. The Legislature finds and declares the following:

(a) Support for economic development and technological innovation are prudent investments in California's future.

(b) The Small Business Innovation Research program (SBIR) was established by Congress in 1982 (Public Law 97-219) to spur development of new products and processes by small, high technology enterprises for introduction into the commercial marketplace.

(c) According to the United States Small Business Administration, since the program was established, 19 states had, as of June 1990, established state-supported programs that provide financial assistance, advisory services, or both.

(d) In establishing the SBIR program, the Congress identified four objectives to be met by the program:

(1) Stimulate technological innovation.

(2) Use small businesses to meet federal research and development needs.

(3) Foster and encourage participation by minority and disadvantaged persons in technological innovation.

(4) Increase private sector commercialization innovations derived from federal research and development.

(e) Since the SBIR program was created, 14,903 awards have been received by United States small businesses valued at $1.8 billion. Of that amount, 11.2 percent of all awards were granted to minority or disadvantaged-owned firms.

(f) California firms receive 22 percent of SBIR awards.

(g) The United States Small Business Administration reports approximately 670 SBIR grants were awarded to California companies in 1988.

SEC. 2. The Legislature further finds and declares the following:

(a) States such as Ohio, that have established state-supported SBIR programs, report achieving significant increases in successful SBIR applicants.

(b) According to the Small Business Administration, one in four small business firms receiving Phase I and Phase II SBIR awards achieve successful commercialization of resulting products and processes within four years of development.

SEC. 3. It is the intent of the Legislature in enacting this statute to do the following:

(a) Utilize the state's technical and fiscal resources to increase the real and potential benefits to California small business enterprises, including women and minority-owned businesses, of the federal SBIR program.

(b) Strengthen the ability of small business entrepreneurs to successfully compete for SBIR awards.

(c) Provide assistance to California companies in commercialization of products and processes developed through SBIR funded research to aid the economic viability of California small business.

(d) Maintain and increase employment opportunities in technology-oriented California firms.

(e) Utilize the expertise of California's successful SBIR firms in improving the ability of the state's science and engineering talent to adapt fundamental principles of entrepreneurship to facilitate the successful creation of new products and processes for the commercial marketplace.

SEC. 4. Chapter 3.6 (commencing with Section 15379.20) is added to Part 6.7 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 3.6. CALIFORNIA SMALL BUSINESS INNOVATION RESEARCH PROGRAM

Article 1. General Provisions

15379.20. The following definitions govern the construction of this chapter.

(a) "Small Business Innovation Research program (SBIR)" means that program enacted pursuant to the Small Business Innovation Development Act of 1982 (Public Law 97-219) that provides funds to small businesses to conduct innovative research having commercial application.

(b) "Small business" means a corporation, partnership, sole proprietorship, or individual operating a business for profit with 500 employees or less, including employees employed in any subsidiary or affiliated corporation which otherwise meets the requirements of the federal SBIR program.

(c) "Phase I award" means federal SBIR awards of between twenty thousand dollars ($20,000) and fifty thousand dollars

($50,000) in support of approximately a six-month research effort that will demonstrate to the federal funding agency all of the following:

(1) That the proposing firm can perform high quality research and development.

(2) That the proposed effort is technically feasible.

(3) That sufficient progress had been made to justify a much larger agency investment in Phase II.

(d) "Phase II award" means federal SBIR awards, ranging between two hundred thousand dollars ($200,000) and five hundred thousand dollars ($500,000), funding the principal research and development effort with a duration normally not exceeding two years.

15379.21. (a) There is hereby created in state government a California Small Business Innovation Research Program for purposes of providing educational, technical, and financial assistance to any California small business enterprise engaging in, or intending to engage in, research and development that is deemed to be innovative and in the long-term interest of the economy of the state.

(b) The California Small Business Innovation and Research Program shall be administered by the Chancellor of the California Community Colleges. Administrative operation and control expenses necessary to carry out this chapter shall be covered by existing resources in the chancellor's office.

Article 2. The California Community Colleges Business Resources and Assistance Innovation Network

15379.30. Within the California Community Colleges Economic Development Program there is hereby created the California Business Resources and Assistance Innovation Network (BRAIN) which facilitates access by small businesses to the resources of the California Community College system.

15379.31. The chancellor of the California Community Colleges shall submit to the Board of Governors of the California Community Colleges an annual implementation plan for the California Community Colleges Economic Development Program. The chancellor may contract with local community colleges to provide staff support for the program.

15379.32. The mission of the economic development program, subject to approval and amendment by the Board of Governors of the California Community Colleges, shall include, but not be limited to, all of the following:

(a) To advance California's economic growth and global competitiveness through quality education and services focusing on continuous workforce improvement, technology deployment, and business development.

(b) To coordinate a community college response to meet

statewide workforce needs which attracts, retains, and expands businesses.

(c) To develop innovative solutions, as needed, in identified strategic priority areas, including, but not limited to, small business applications, applied competitive technologies, environmental issues, health care delivery, international trade, and work place literacy.

(d) To identify, acquire, and leverage resources to support local, regional, and statewide economic development.

(e) To create logistical, technical, and marketing infrastructure support for economic development activities within the California Community Colleges.

(f) To optimize access to community colleges' economic development services.

(g) To develop strategic public and private sector partnerships.

15379.33. The activities of the network shall be defined by the annual implementation plan of the economic development program and shall include programs for the following:

(a) Supplier and other small business formation and business development, including assistance in obtaining Phase I SBIR awards.

(b) Supplier and other small business technology applications, including assistance in obtaining and managing Phase II SBIR awards or referrals to the California Community Colleges Centers for Applied Competitive Technologies, as appropriate.

(c) Public and private strategic alliance formation for purposes of product commercialization, including assistance in obtaining Phase III SBIR awards or referrals, as appropriate.

15379.34. Among other activities, the network shall implement the California Small Business Innovation Research Program and shall collaborate with all public and private institutions of higher education and with the Department of Commerce, including the California Small Business Development Center Program, and all state and federal agencies interested in referring small businesses to the network for purposes of facilitating state SBIR program services.

Article 3. California Community Colleges Business Resource Assistance and Innovation Network Trust Fund

15379.40. The California Community Colleges Business Resource Assistance and Innovation Network Trust Fund is hereby created in the State Treasury as a special fund administered by the Board of Governors of the California Community Colleges. The board may solicit direct contributions for deposit in the fund from various nonstate public and private sources for the purpose of funding the California Community Colleges Economic Development Program. Upon appropriation by the Legislature, the fund may be used for purposes of administering contracts for providing services, through the program, to public and private entities.

Article 4. California Small Business Innovation Research Pilot Projects

15379.50. It is the intent of the Legislature that pilot Small Business Innovation Research Projects shall be established over a two-year period, commencing January 1, 1992, pursuant to this article.

15379.51. (a) Commencing January 1, 1992, pilot SBIR projects shall be established in northern and southern facilities of the California Community Colleges operating Centers for Applied Competitive Technology or Small Business Development Centers as components of the network established pursuant to Article 2 (commencing with Section 15379.30).

(b) The model SBIR projects shall carry out the following:

(1) Provide public information and outreach services to California small businesses regarding opportunities for SBIR grant awards.

(2) Assist small business in identifying and applying for funds under Phase I or Phase II of the federal SBIR program in support of research and development work on innovative technical ideas.

(3) Provide access by California small business enterprises to computer aided design equipment and services; computer integrated design, manufacturing, and management systems; and other technical incubation resources as required.

(4) Utilize the resources of the California Community Colleges Economic Development Program in establishing a technology transfer information network.

(5) Provide networking services to facilitate liaison between small business enterprises and participating federal agencies, establish linkages with other business assistance resources, and provide assistance in identifying potential private sector commercialization funding and related support, including joint ventures and research and development partnerships.

(c) Pilot projects conducted pursuant to this article shall be self-supporting through a fee schedule.

15379.52. (a) Commencing January 1, 1993, pilot SBIR projects shall be established in the central regions of the state.

(b) Functions of the pilot projects shall be in accordance with those stated in Section 15379.51.

Article 5. California Small Business Innovation Research Internship Program

15379.60. The Legislature finds and declares the following:

(a) According to the Office of Technology Assessment's 1990 report, "Making Things Better," due to demographic trends, by the year 2000, fewer young people are likely to enter engineering and science programs leading to rising costs to employers in securing technical engineering talent.

(b) While large companies and high technology firms will

continue to employ engineers and scientists, an increasing number of small companies will find it difficult to afford even one engineer.

(c) The Office of Technology Assessment also reports that American engineers are more likely to become managers earlier than foreign competitors, such as their Japanese counterparts, and to broaden knowledge by transferring between companies rather than within them.

(d) The state can encourage the utilization of engineering talent by small entrepreneurs by recognizing the needs of graduating engineers for acquisition of engineering skills and expertise in innovative product and manufacturing process design.

15379.61. There is hereby established, in conjunction with the California Small Business Innovation Program, the California Small Business Innovation Research Internship Program.

15379.62. (a) Internships shall be awarded to eligible engineering graduates of California Community Colleges. Funding for the internships shall be from nonstate sources with the exception of currently funded state programs.

(b) Eligibility criteria for engineering graduates shall include, but not limited to, all of the following:

(1) Students shall be California residents.

(2) Students shall have received faculty nomination based upon the following criteria:

(A) Academic excellence in engineering disciplines.

(B) Demonstrated vocational interest and capabilities in high technology fields.

(c) Internships awarded shall fund the employment of an engineering graduate for one semester in an SBIR firm's technical team.

(d) Qualifying SBIR firms shall meet the following conditions:

(1) Be successful recipients of Phase I and Phase II SBIR awards for research conducted in the state.

(2) Be a California-based company having 51 percent or more of its business operations within the state.

(3) Have a well-formulated business plan and commercialization strategy for products or processes resulting from SBIR-funded research.

Article 6. Legislative Review

15379.70. Not later than June 30, 1994, the Chancellor of the California Community Colleges shall prepare a report to the Governor, the Legislature, and the Board of Governors of the California Community Colleges. The report shall consider all of the following:

(a) The success rate for state SBIR program-assisted applicants in successfully receiving federal SBIR awards.

(b) Documentation regarding successful commercialization assistance provided to SBIR firms.

(c) The extent to which the program has increased employment generation potential for the state as a result of state supported SBIR activity.

(d) An assessment of the effectiveness of the entrepreneurial internship program based on the following:

(1) A determination of the extent to which the program has provided an effective training resource to engineering graduates.

(2) The level of private sector support demonstrated through SBIR firm participation in the program.

15379.71. Costs incurred by the chancellor in preparing the report required in this article shall be covered by existing resources.

Article 7. Termination

15379.80. This chapter shall remain in effect only until January 1, 1995, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1995, deletes or extends that date.

Article 8. Operation

15379.90. The Chancellor of the California Community Colleges is required to implement Article 3 (commencing with Section 15379.40), Article 4 (commencing with Section 15379.50), and Article 5 (commencing with Section 15379.60) of this chapter only upon the availability of sufficient nonstate public and private sector funding, including federal funding sources.

CHAPTER 1215

An act to add Section 9026.5 to the Government Code, relating to the proceedings of the Assembly.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 9026.5 is added to the Government Code, to read:

9026.5. No television signal generated by the Assembly shall be used for any political or commercial purpose, including, but not limited to, any campaign for elected public office or any campaign supporting or opposing a ballot proposition submitted to the electors.

As used in this section, "commercial purpose" does not include the use of any television signal generated by the Assembly by an accredited news organization or any nonprofit organization for educational or public affairs programming.

Any person or organization who violates this section is guilty of a

misdemeanor.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1216

An act to repeal and add Section 30000 of the Elections Code, and making an appropriation therefor, relating to elections.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 30000 of the Elections Code is repealed.

SEC. 2. Section 30000 is added to the Elections Code, to read:

30000. (a) The Secretary of State shall prepare detailed maps showing the boundaries of any districts established by this division on or after January 1, 1991. These maps shall be prepared no later than 90 days following the enactment of any amendment to Section 30010, 30020, 30030, or 30040, and shall illustrate the boundary lines of every district described in the amended section.

(b) The Secretary of State shall provide each Member of the Senate, Assembly, and the State Board of Equalization, and each Member of Congress from California, with one copy of a map or maps of his or her district. One copy of the entire set of maps for the Assembly shall be provided to the Assembly Committee on Rules, one copy of the entire set of maps for the Senate shall be provided to the Senate Committee on Rules, and one copy of the entire set of maps for the State Board of Equalization shall be provided to the State Board of Equalization.

(c) The Secretary of State shall also make copies of the maps available for public inspection. The Secretary of State shall also provide copies of the maps to the county elections officials for use in their administrative functions involved in the conduct of elections.

(d) There shall be no charge for the maps provided pursuant to this section.

SEC. 3. The sum of three hundred fifty thousand dollars ($350,000) is hereby appropriated from the General Fund to the Secretary of State for the purposes of this act.

CHAPTER 1217

An act to add Sections 17331, 17331.1, 17331.2, and 17331.3 to the Financial Code, relating to escrow agents.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 17331 is added to the Financial Code, to read:

17331. (a) Within 30 days following written notice by Fidelity Corporation to an escrow agent any shareholder, officer, director, trustee, manager, or employee of an escrow agent, directly or indirectly compensated by an escrow agent within this state, shall be required to apply for a Fidelity Corporation Certificate, prepared and issued by Fidelity Corporation, as a condition of their employment or entitlement to compensation, before the person may continue the regular discharge of their duties, or have access to moneys or negotiable securities belonging to or in the possession of the escrow agent, or draw checks upon the escrow agent or the trust funds of the escrow agent.

(b) Within 60 days of the effective date of this section, each member shall provide Fidelity Corporation with a list of all shareholders, officers, directors, trustees, managers, and employees or other persons, on the form prescribed by Fidelity Corporation.

(c) Fidelity Corporation Certificates may also be known as Escrow Agents' Fidelity Corporation Certificates or EAFC Certificates. The certificate shall at all times remain the property of Fidelity Corporation, and shall be held by a member for the benefit of an employee, but is not issued personally to the employee, is not transferable by either a member or employee, and shall be returned to Fidelity Corporation by the member upon termination of an employee or upon written demand by Fidelity Corporation. The certificate shall not be deemed to be, or construed as, a warranty or guarantee by Fidelity Corporation of the integrity, veracity, or competence of the person.

(d) An application for a Fidelity Corporation Certificate shall be in writing and in such form as prescribed by Fidelity Corporation, and may include (1) a fee not to exceed fifty dollars ($50), (2) two passport-size photographs, and (3) a set of fingerprints on the form established by the Department of Justice for requesting state summary criminal history information plus the fee charged by the Department of Justice for processing noncriminal applicant fingerprints. The Department of Justice shall honor the Fidelity Corporation report request form and issue a report to Fidelity Corporation notwithstanding any other provision of law or regulation to the contrary. Any member shall cause the filing of

applications for all existing employees as required by this section within 30 days of written notice by Fidelity Corporation to the member.

(e) The application form shall include a provision for binding arbitration, which shall be set out in at least 8-point type, to allow for arbitration of any appeal or dispute as to any decision by Fidelity Corporation concerning the certificate, as follows:

ANY DISPUTE AS TO WHETHER THE DENIAL OF THIS CERTIFICATE APPLICATION IS UNNECESSARY OR UNAUTHORIZED OR WAS IMPROPERLY, NEGLIGENTLY, OR UNLAWFULLY RENDERED, MAY BE DETERMINED BY SUBMISSION TO ARBITRATION AS PROVIDED BY CALIFORNIA LAW, AND NOT BY A LAWSUIT OR RESORT TO COURT PROCESS EXCEPT AS CALIFORNIA LAW PROVIDES FOR JUDICIAL REVIEW OF ARBITRATION PROCEEDINGS OR EXCEPT AS PROVIDED BY SECTION 17331.3 OF THE FINANCIAL CODE. THE APPLICANT MAY, SUBJECT TO AGREEMENT, SUBMIT ANY ISSUE ARISING FROM ANY DECISION BY FIDELITY CORPORATION TO DENY THIS CERTIFICATE APPLICATION TO BE DECIDED BY BINDING NEUTRAL ARBITRATION. UPON SUCH AGREEMENT, THE APPLICANT HAS NO RIGHTS TO HAVE ANY DISPUTE CONCERNING THIS CERTIFICATE APPLICATION LITIGATED IN A COURT OR JURY TRIAL NOR ANY JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, EXCEPT AS SPECIFICALLY PROVIDED IN THE ESCROW LAW, AND ARBITRATION MAY BE COMPELLED AS PROVIDED BY LAW.

(f) The certificate form shall contain a provision for arbitration for any appeal or dispute as to any decision by Fidelity Corporation concerning the certificate as follows:

ANY DISPUTE AS TO WHETHER THE SUSPENSION OR REVOCATION OF THIS CERTIFICATE BY FIDELITY CORPORATION IS UNNECESSARY OR UNAUTHORIZED OR WAS IMPROPERLY, NEGLIGENTLY, OR UNLAWFULLY RENDERED, MAY BE DETERMINED BY SUBMISSION TO ARBITRATION AS PROVIDED BY CALIFORNIA LAW, AND NOT BY A LAWSUIT OR RESORT TO COURT PROCESS EXCEPT AS CALIFORNIA LAW PROVIDES FOR JUDICIAL REVIEW OF ARBITRATION PROCEEDINGS OR EXCEPT AS PROVIDED BY SECTION 17331.3 OF THE FINANCIAL CODE. THE PERSON TO WHOM THIS CERTIFICATE HAS BEEN ISSUED MAY, SUBJECT TO AGREEMENT, SUBMIT ANY ISSUE ARISING FROM ANY DECISION BY FIDELITY CORPORATION TO EITHER SUSPEND OR REVOKE THIS CERTIFICATE TO BE DECIDED BY BINDING NEUTRAL ARBITRATION. UPON SUCH AGREEMENT, THE PERSON TO WHOM THE CERTIFICATE IS ISSUED HAS NO RIGHTS TO HAVE ANY DISPUTE

CONCERNING THIS CERTIFICATE LITIGATED IN A COURT OR JURY TRIAL NOR ANY JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, EXCEPT AS SPECIFICALLY PROVIDED IN THE ESCROW LAW, AND ARBITRATION MAY BE COMPELLED AS PROVIDED BY LAW.

(g) There shall be no liability on the part of and no cause of action of any nature shall arise against Fidelity Corporation or its members, directors, officers, employees, or agents, the State of California, the Department of Corporations, or any officer, agent, or employee of the state or the Department of Corporations for any statements made by Fidelity Corporation in any reports or recommendations made pursuant to this division, or for any reports or recommendations made pursuant to this division to Fidelity Corporation by its members, directors, officers, employees or agents, the State of California, the Department of Corporations, or any officer, agent, or employee of the state or the Department of Corporations, unless the information provided is false and the party making the statement or providing the false information does so with knowledge and malice. Reports or recommendations made pursuant to this section, or Section 17331.1, 17331.2, or 17331.3 shall not be public documents.

(h) There shall be no liability on the part of and no cause of action of any nature shall arise against Fidelity Corporation or its members, directors, officers, employees, or agents, the State of California, the Department of Corporations, or any officer, agent, or employee of the state or the Department of Corporations for the release of any information furnished to Fidelity Corporation pursuant to this section unless the information released is false and the party, including Fidelity Corporation, its members, directors, officers, employees, or agents, the state, the Department of Corporations, or any officer, agent, or employee of the state or the Department of Corporations, who releases the false information does so with knowledge and malice.

(i) There shall be no liability on the part of and no cause of action of any nature shall arise against Fidelity Corporation or its directors, officers, employees, or agents, for any decision to deny an application for a certificate or to suspend or revoke the certificate of any person or for the timing of any decision or the timing of any notice to persons or members thereof. This subdivision does not apply to acts performed in bad faith or with malice.

(j) Fidelity Corporation, any member of Fidelity Corporation, an agent of Fidelity Corporation or of its members, or any person who uses any information obtained under this section for any purpose not authorized herein is guilty of a misdemeanor.

(k) Section 17331, 17331.1, or 17331.2 shall not constitute a restriction or limitation upon the obligation of Fidelity Corporation to indemnify members against loss, as provided in Sections 17310 and 17314. The failure to obtain a certificate, the denial of an application for a certificate, or the suspension, cancellation, or revocation of a

certificate shall not limit the obligation of Fidelity Corporation to indemnify a member against loss.

(*l*) As of January 1, 1992, notwithstanding Section 11105 of the Penal Code, Fidelity Corporation shall be entitled to receive state summary criminal history information and subsequent arrest notification from the Department of Justice as a result of fingerprint cards submitted to the Department of Justice by the Department of Corporations, pursuant to subdivision (g) of Section 17209, Section 17212.1, and subdivision (d) of Section 17414.1, by or on behalf of escrow agents, shareholders, officers, directors, trustees, managers, or employees of an escrow agent, directly or indirectly compensated by an escrow agent. The Department of Justice and Fidelity Corporation shall enter into an agreement to implement this subdivision. The Department of Corporations shall forward to Fidelity Corporation, weekly, a list of names of individual fingerprints submitted to the Department of Justice.

SEC. 2. Section 17331.1 is added to the Financial Code, to read:

17331.1. (a) As of January 1, 1992, any person not previously issued a certificate must, upon employment with an escrow agent within this state, apply to Fidelity Corporation for a certificate within 10 business days. The person may continue employment until or unless denied a certificate by Fidelity Corporation. The member shall submit all applications for certificates to Fidelity Corporation within 10 business days of the date of employment.

(b) Upon written notice by Fidelity Corporation to any or all members that any person has been denied a certificate, or has had a certificate suspended, canceled, or revoked, no member or person acting on behalf of a member shall authorize that person to have access to money or negotiable securities belonging to or in the possession of the escrow agent, or to draw checks upon the escrow agent or the trust accounts of the escrow agent. Any member or person who commits or who causes a violation of this section, which violation was either known or should have been known by the member or such persons committing or causing the violation, may be subject to action by the commissioner and Fidelity Corporation as provided for in this division.

(c) Upon employment of any person already issued a valid certificate by Fidelity Corporation with an escrow agent within this state, the member shall notify Fidelity Corporation within 10 business days in writing on a form prescribed by Fidelity Corporation.

(d) Any person required to have a certificate shall notify Fidelity Corporation within 10 business days on a form prescribed by Fidelity Corporation of any change of the individual's name or home or mailing address or employment status. The notice shall be accompanied by a fee to cover the cost of processing the notice, but not to exceed twenty-five dollars ($25).

(e) A member shall forward the certificate to Fidelity Corporation within five business days of the date of termination of

any person and shall state thereon the date of termination. Fidelity Corporation shall, for a term not to exceed one year, hold the certificate until notified of commencement of employment by a member. After one year, the certificate will be canceled and a new application for a certificate will be required of such person in accordance with Section 17331 or 17331.1.

(f) Fidelity Corporation shall assess the member a penalty at the rate of twenty-five dollars ($25) for every day that the member has not fully complied with this section, Section 17331, or Section 17331.2.

(g) Any member that suffers a loss of trust obligations caused by any person who is required to have a certificate but has (1) failed to apply for a certificate, (2) has had the application for a certificate denied, (3) has a suspended certificate, or (4) whose certificate has been revoked shall be obligated to pay a deductible in the amount of ten thousand dollars ($10,000) plus 10 percent of the amount by which the loss exceeds ten thousand dollars ($10,000), notwithstanding the statutory deductible as prescribed by Section 17314.3. Other than as provided for in this subdivision, the failure to obtain a certificate, the denial of an application for a certificate, or the suspension, cancellation, or revocation of a certificate shall not limit the obligation of Fidelity Corporation to indemnify a member against loss of trust obligations as defined in this division.

SEC. 3. Section 17331.2 is added to the Financial Code, to read:

17331.2. (a) Fidelity Corporation shall deny the application for a certificate or revoke the certificate of any person, upon any of the following grounds:

(1) The application contains a material misrepresentation of fact or fails to disclose a material fact so as to render the application false or misleading, or if any fact or condition exists which, if it had existed at the time of the original application for a certificate, reasonably would have warranted Fidelity Corporation to refuse originally to issue such certificate.

(2) That the person has been convicted of a felony involving dishonesty, fraud, deceit, or any other crime reasonably related to the qualifications, functions, or duties of a person engaged in business in accordance with the provisions of this division, which felony has not been expunged and the person has not obtained a certificate of rehabilitation from a court of competent jurisdiction, as allowed by Section 4852.01 of the Penal Code.

(3) That the person has been convicted of, or pleaded nolo contendere to, a crime, or has been held liable in a civil action by final judgment, if the crime or civil action involved fraud, embezzlement, fraudulent conversion, or misappropriation of property.

(4) That the person has committed or caused to be committed an act which caused any member to suffer a loss; or that the person has committed or caused to be committed or colluded with any other person committing any act which caused a loss, for which Fidelity Corporation or the insurer on any insurance policy or fidelity bond

purchased by Fidelity Corporation, or both, to become liable to indemnify any member.

(5) That the person has been barred from employment by final order of the commissioner pursuant to Section 17423.

(6) That the person has been deemed not qualified to serve in any capacity as a director or officer or in any other position involving management duties with a financial institution, pursuant to Division 1.8 (commencing with Section 4990).

(7) That the person has been denied coverage or reinstatement by any insurer under any fidelity bond or crime policy, unless a decision of reinstatement of coverage has been made after such denial.

(b) Fidelity Corporation may suspend the certificate of any person upon any of the following grounds:

(1) That the person has been censured or suspended from any position of employment or management or control of any escrow agent, by final order of the commissioner.

(2) That there is an action commenced by the commissioner to either suspend or bar such person, under Section 17423.

(3) That any member with whom the person was employed has given a proof of loss or a notice of an occurrence which may give rise to a claim for a loss of trust obligations either of which identifies the person as the person responsible for the loss or as a person acting in collusion with the person causing the loss.

(c) Upon denial of an application for, or upon suspension or revocation of the certificate of any person, Fidelity Corporation shall provide written notice to the member with whom that person is employed of the decision, pending any appeal therefrom which might be made. The grounds and basis for the decision shall be stated in the notice thereof. Thereafter, the member shall not allow that person to have access to money or negotiable securities belonging to or in the possession of the escrow agent, or to draw checks upon the escrow agent or the trust accounts of the escrow agent. Fidelity Corporation shall notify the person in writing of the decision to deny, suspend, or revoke the certificate and of the person's right of appeal, together with the notice of appeal. All notices may be served either personally or by mail, properly addressed to the address of record for the member and the person.

(d) Any person whose application for a certificate has been denied, or whose certificate has been suspended or revoked, may appeal the decision, as provided in Section 17331.3. While such appeal is pending, the person may not have access to money or negotiable securities belonging to or in the possession of the escrow agent, or to draw checks upon the escrow agent or the trust accounts of the escrow agent. Failure to remove the person whose application has been denied, or whose certificate has been suspended or revoked, as a signer on the trust accounts may be subject to action by the commissioner as provided for in this division and shall be subject to penalties as set forth in Section 17331.1.

(e) Upon expiration of the time for an appeal, or upon conclusion of the appeal, the decision to deny an application for or to suspend or revoke the certificate of any person shall become final. Fidelity Corporation shall give written notice to the member and to the person of the final decision within 10 days. Thereafter, Fidelity Corporation shall disclose in writing to all members the identity of persons whose application has been denied or whose certificate has been revoked.

SEC. 4. Section 17331.3 is added to the Financial Code, to read:

17331.3. (a) Notice to the person, and to the member with whom the person is employed, of the decision to deny an application for or to revoke or suspend a Fidelity Corporation Certificate, shall be effective immediately upon personal delivery, or by facsimile if written acknowledgment of receipt by the member and the person is returned by facsimile, or within five days of the date of mailing, and shall become final upon expiration of the time for filing a notice of appeal or upon the conclusion of the appeal, as provided for in this section.

(b) The person whose application for a certificate has been denied, or whose certificate has been suspended or revoked may, within 15 days after notice of the decision, file with Fidelity Corporation a notice of appeal and request for a hearing, by binding arbitration or judicial action, as provided herein. Neither the notice of appeal nor the request for a hearing shall stay the decision of Fidelity Corporation under Section 17331.2. A late notice of appeal and request for a hearing may be accepted upon a showing of good cause.

(c) The hearing for the appeal may be resolved by arbitration in accordance with Chapter 1 (commencing with Section 1280) of Title 9 of Part 3 of the Code of Civil Procedure. The notice of the person's right to appeal and notice of appeal provided by Fidelity Corporation shall contain a schedule of proposed arbitrators or of a proposed arbitration forum which provides a panel of arbitrators and method for appointing an arbitrator. The person filing the notice of arbitration may agree to submit the decision and matter to binding arbitration and accept an arbitrator whose name appears on the notice or may propose, in writing, an alternative arbitrator, but if Fidelity Corporation does not notify the person of acceptance of the proposed alternative arbitrator within 10 days, then either party may within 30 days petition the court to appoint an arbitrator, as provided by law.

(d) If the person does not agree to submit the decision and matter to binding arbitration, then the person may, within 30 days after the notice of the decision, file an action in superior court concerning the decision to deny an application for, or to suspend or revoke the certificate. The court may, on its own motion, or shall, upon the filing of an election by any or either party, order that the action be submitted to arbitration pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure,

in which case the action shall be accorded that priority for hearing as circumstances permit, unless the plaintiff may otherwise request.

(e) Either Fidelity Corporation or the person whose application for a certificate has been denied, or whose certificate has been suspended or revoked, may apply to the superior court for relief to compel compliance with this section in accordance with Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure.

(f) Upon the conclusion of the hearing on appeal, either the arbitrator or the court may in its discretion award to the prevailing party as an item of costs, reasonable attorneys' fees, and costs. All other expenses and fees for the arbitration incurred prior to the decision of the arbitrator or confirmation of the decision by the court shall be shared equally by the parties except for attorneys' fees, witness fees or other expenses incurred by either party for his or her own benefit.

(g) Upon the filing of any action in the superior court by the person whose application for a certificate has been denied, or whose certificate has been suspended or revoked, Fidelity Corporation at any time within 30 days after service of the summons may upon notice and hearing, move the court for an order requiring the plaintiff to furnish an undertaking to secure an award of costs and attorneys' fees which may be awarded in the action. The motion shall be supported by affidavit showing that the action filed is frivolous and that there is no reasonable possibility that the prosecution of the action will benefit the plaintiff and that the moving party fully complied with this section and Section 17331.2.

At the hearing upon the motion, the court shall consider any written or oral evidence, by witnesses or affidavit, as may be material (1) to the ground or grounds upon which the motion is based, or (2) to a determination of the probable reasonable expenses, including attorneys' fees, of the defendant and the moving party, which will be incurred in the defense of the action.

If the court determines, after hearing the evidence adduced by the parties, that the moving party has established a probability in support of any of the grounds upon which the motion is based, the court shall fix the amount of the undertaking, not to exceed twenty-five thousand dollars ($25,000), to be furnished by the plaintiff for reasonable expenses, including attorneys' fees, which may be incurred by the moving party in connection with the action.

A ruling by the court on the motion shall not be a determination of any issue in the action or of the merits thereof. If the court, upon the motion, makes a determination that a bond shall be furnished by the plaintiff, the action shall be dismissed as to the defendant, unless the bond required by the court has been furnished within a reasonable time as may be fixed by the court. Upon the filing of a motion pursuant to this subdivision, no other pleadings need be filed by the defendant and the prosecution of the action shall be stayed until 10 days after the motion has been disposed of. The motion shall

be considered pursuant to this subdivision and in accordance with Chapter 2 (commencing with Section 995.010) of Title 14 of Part 2 of the Code of Civil Procedure.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1218

An act to amend Section 25143.5 of and to add and repeal Section 25143.4 of, the Health and Safety Code, relating to hazardous waste.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 25143.4 is added to the Health and Safety Code, to read:

25143.4. (a) The classifications of fly ash, bottom ash, and flue gas emission control residues as nonhazardous, made by the department before January 1, 1985, for the ash or residue generated by an individual solid waste facility which will convert solid waste into energy shall not be modified or repealed by the department unless the department determines all of the following:

(1) New data reveals that there has been a significant change in the solid waste entering the combustion process, in the combustion process itself, or in the management of the ash or residue.

(2) The change specified in paragraph (1) causes the facility to produce waste which is hazardous waste, as defined in Section 25117, as determined by the testing of a representative sample of the ash or residue pursuant to criteria adopted by the department.

(3) The hazard caused by the change specified in paragraph (1) or the hazardous waste produced by the facility is not adequately regulated by any other state or local agency with jurisdiction over the facility which generates the ash or residue.

(b) This section applies to determinations made by the department for individual solid waste conversion facilities, including, but not limited to, those projects which will be constructed or will serve the Counties of San Diego, Humboldt, San Joaquin, Butte, Trinity, Sacramento, and Alameda, and the Cities of San Francisco,

Long Beach, Fresno, Modesto, Sanger, and Commerce.

(c) Notwithstanding any other provision of law, this section applies only to fly ash, bottom ash, and flue gas emission control residues which are not RCRA hazardous waste.

(d) This section shall become inoperative on September 30, 1992, and, as of January 1, 1993, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1993, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 25143.5 of the Health and Safety Code is amended to read:

25143.5. (a) Except as provided in subdivisions (d) and (e), the department shall classify as nonhazardous waste any fly ash, bottom ash, and flue gas emission control residues, generated from a biomass combustion process, as defined in subdivision (f), if the combustion process will be adequately monitored and controlled so as to prevent the handling or the disposal of any waste in a manner prohibited by law, unless the department determines that the ash or residue is hazardous, by testing a representative sample of the ash or residue pursuant to criteria adopted by the department.

(b) The fly ash, bottom ash, and flue gas emission control residues which are classified as nonhazardous by the department are exempt from this chapter.

(c) An operator of a biomass facility which converts biomass into energy for which the department has classified the ash or residue as hazardous shall notify the department whenever there has been a significant change in the waste entering the combustion process, the combustion process itself, or in the management of the ash or residues generated by the facility. An operator of a biomass facility which converts biomass into energy for which the department has classified the ash or residue as nonhazardous shall notify the department when there has been a significant change in the waste entering the combustion process or in the combustion process itself.

(d) For purposes of classifying fly ash, bottom ash, and flue gas emission control residues generated by the combustion of municipal solid waste in a facility for which the department classified as nonhazardous on or before January 1, 1985, the sampling of the ash or residue for purposes of classification by the department shall occur at the point in the process following onsite treatment of the ash or residue.

(e) Notwithstanding any other provision of law, this section applies only to fly ash, bottom ash, and flue gas emission control residues which are not RCRA hazardous waste.

(f) For purposes of this section, the following definitions shall apply:

(1) "Biomass combustion process" means a combustion process which has a primary energy source of biomass or biomass waste, and of which 75 percent of the total energy input is from these sources during any calendar year and of which 25 percent or less of the other energy sources do not include sewage sludge, industrial sludge,

medical waste, hazardous waste, radioactive waste, or municipal solid waste.

(2) "Biomass" or "biomass waste" means any organic material not derived from fossil fuels, such as agricultural crop residues, bark, lawn, yard and garden clippings, leaves, silvicultural residue, tree and brush pruning, wood and wood chips, and wood waste, including these materials when separated from other waste streams. "Biomass" or "biomass waste" does not include material containing sewage sludge, industrial sludge, medical waste, hazardous waste, or radioactive waste.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1219

An act to amend Section 40000.15 of, and to add Section 24011.3 to, the Vehicle Code, relating to vehicles.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 24011.3 is added to the Vehicle Code, to read:

24011.3. (a) Every manufacturer or importer of new passenger vehicles for sale or lease in this state, shall affix to a window or the windshield of the vehicle a notice with either of the following statements, whichever is appropriate:

(1) "This vehicle is equipped with bumpers that can withstand an impact of 2.5 miles per hour with no damage to the vehicle's body and safety systems, although the bumper and related components may sustain damage. The bumper system on this vehicle conforms to the current federal bumper standard of 2.5 miles per hour."

(2) "This vehicle is equipped with a front bumper of a type that has been tested at an impact speed of (here specify the appropriate number) miles per hour, and a rear bumper of a type that has been tested at an impact speed of (here specify the appropriate number) miles per hour, resulting in no damage to the vehicle's body and safety systems and minimal damage to the bumper and attachment

hardware. 'Minimal damage to the bumper' means minor cosmetic damage that can be repaired with the use of common repair materials and without replacing any parts. The stronger the bumper, the less likely the vehicle will require repair after a low-speed collision. This vehicle exceeds the current federal bumper standard of 2.5 miles per hour."

(b) The impact speed required to be specified in the notice pursuant to paragraph (2) of subdivision (a) is the maximum speed of impact upon the bumper of the vehicle at which the vehicle sustains no damage to the body and safety systems and only minimal damage to the bumper when subjected to the fixed barrier and pendulum impact tests, and when subjected to the corner impact test at not less than 60 percent of that maximum speed, conducted pursuant to Part 581 of Title 49 of the Code of Federal Regulations.

(c) (1) Any manufacturer who willfully fails to affix the notice required by subdivision (a), or willfully misstates any information in the notice, is guilty of a misdemeanor and is punishable by a fine of not more the five hundred dollars ($500). Each failure or misstatement is a separate offense.

(2) Any person who willfully defaces, alters, or removes the notice required by subdivision (a) prior to delivery of the vehicle, to which the notice is required to be affixed, to the registered owner or lessee is guilty of a misdemeanor and is punishable by a fine of not more than five hundred dollars ($500). Each willful defacement, alteration, or removal is a separate offense.

(d) For purposes of this section:

(1) "Manufacturer" is any person engaged in the manufacture or assembly of new passenger vehicles for distribution or sale, and includes an importer of new passenger vehicles for distribution or sale and any person who acts for, or is under the control of, a manufacturer in connection with the distribution or sale of new passenger vehicles.

(2) "Passenger vehicle" means, notwithstanding Section 465, a motor vehicle subject to impact testing conducted pursuant to Part 581 of Title 49 of the Code of Federal Regulations.

(3) "No damage" means that, when a passenger vehicle is subjected to impact testing, conducted pursuant to the conditions and test procedures of Sections 581.6 and 581.7 of Part 581 of Title 49 of the Code of Federal Regulations, the vehicle sustains no damage to the body and safety systems.

(4) For purposes of paragraph (2) of subdivision (a) and subdivision (b), "minimal damage to the bumper and attachment hardware" means damage that can be repaired with the use of common repair materials and without replacing any parts. In addition, not later than 30 minutes after completion of each pendulum or barrier impact test, the bumper face bar shall have no permanent deviation greater than three-quarters of one inch from its original contour and position relative to the vehicle frame and no permanent deviation greater than three-eighths of one inch from its

original contour on areas of contact with the barrier face or impact ridge of the pendulum test device, measured from a straight line connecting the bumper contours adjoining the contact area.

(e) The notice required by this section may be included in any notice or label required by federal law to be affixed to a window or windshield of the vehicle.

SEC. 2. Section 40000.15 of the Vehicle Code is amended to read:

40000.15. A violation of any of the following provisions shall constitute a misdemeanor, and not an infraction:

Sections 23103 and 23104, relating to reckless driving.

Section 23109, relating to speed contests or exhibitions.

Section 23110, subdivision (a), relating to throwing at vehicles.

Section 23152, relating to driving under the influence.

Subdivision (b) of Section 23222, relating to possession of marijuana.

Sections 23237 and 23244, relating to ignition interlock devices.

Section 23253, relating to officers on vehicular crossings.

Section 23332, relating to trespassing.

Section 24011.3, relating to vehicle bumper strength notices.

Section 27150.1, relating to sale of exhaust systems.

Section 27362, relating to child passenger seat restraints.

Section 28050, relating to true mileage driven.

Section 28050.5, relating to nonfunctional odometers.

Section 28051, relating to resetting odometer.

Section 28051.5, relating to device to reset odometer.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1220

An act to amend Section 69619.1 of the Education Code, relating to education.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 69619.1 of the Education Code is amended to read:

69619.1. (a) The California School Paraprofessional Teacher Training Program is hereby established for the purpose of recruiting paraprofessionals to participate in a pilot program designed to encourage them to enroll in a teacher training program and to provide instructional service as a teacher in the public schools.

(b) No later than July 1, 1992, the Commission on Teacher Credentialing, in consultation with the Chancellor of the California Community Colleges, the Chancellor of the California State University, and representatives of certificated and classified employee organizations, shall select 12 or more school districts or county offices of education, each of which applies for that selection and has 300 or more classified employees, to participate in a pilot program for the recruitment of school paraprofessional employees who wish to enroll in teacher training programs. The commission shall ensure that a total of 600 school paraprofessionals are recruited from among the 12 participating school districts or county offices of education. The commission shall also require that at least 40 percent of the school paraprofessionals employed by each school district or county office of education selected to participate in the pilot program are members of racial and ethnic minority groups, as determined by data compiled under the California Basic Educational Data System maintained by the State Department of Education. The criteria adopted by the commission for the selection of school districts or county offices of education to participate in the pilot program shall include the following:

(1) The extent to which the applicant district or county office demonstrates the capacity and willingness to accommodate the participation of school paraprofessionals of the district in teacher training programs conducted at institutions of higher education.

(2) The extent to which the applicant district's or county office's plan for the implementation of its recruitment program involves the active participation of one or more local campuses of the California Community Colleges or the California State University in the development of coursework and teaching programs for participating school paraprofessionals. Each selected school district or county office of education shall be required to enter into a written articulation agreement with the participating campuses of the California Community Colleges and the California State University.

(3) The extent to which the district's or county office's plan for recruitment attempts to meet the demand for bilingual crosscultural teachers.

(4) The extent to which the applicant district's or county office's plan for recruitment attempts to meet the demand for special education teachers.

(5) The extent to which the applicant district's or county office's plan for recruitment includes a developmentally sequenced series of job descriptions that lead from an entry level school paraprofessional position to an entry level teaching position in that district.

(c) Each selected school district or county office of education shall

provide information and assistance to each school paraprofessional it recruits under the pilot program regarding admission to a teacher training program.

(d) The school district or county office of education shall recruit and organize groups, or "cohorts," of school paraprofessionals, of not less than 30 paraprofessionals in each cohort. Cohorts shall be organized to consist of school paraprofessionals having approximately equal academic experience and qualifications, as determined by the district or county office of education. The members of each cohort shall enroll in the same campus, and shall be provided by the school district or county office of education with appropriate support and information throughout the course of their studies. Each school district or county office of education shall certify that it has received a commitment from each member of a cohort that he or she will complete one school year of classroom instruction in the district or county office of education for each year that he or she receives assistance for books, fees, and tuition while attending a community college or a campus of the California State University under the program. To the extent possible, members of each cohort shall proceed through the same waiver and credential programs. If any participant does not fulfill his or her obligation to complete one year of classroom instruction for each year of financial assistance he or she received under the program, the participant shall be required to repay the assistance to the extent he or she failed to meet that obligation. "Teacher training program," for the purposes of this article, means any undergraduate program of instruction conducted at a campus of the California Community Colleges, or undergraduate or graduate program conducted at a campus of the California State University, that is designed to qualify students enrolled in the program for a teaching credential authorizing instruction in kindergarten and grades 1 to 12, inclusive.

(e) The commission shall contract with an independent evaluator with a proven record of experience in assessing career-advancement teacher training programs to determine the success of the recruitment programs established pursuant to subdivision (b). The evaluation shall be made on an annual basis and shall include, but shall not be limited to, all of the following:

(1) The number and racial and ethnic classifications of school paraprofessionals successfully recruited under this article for participation in a teacher training program.

(2) The number and racial and ethnic classifications of school paraprofessionals participating in the pilot program who successfully complete the teacher training program each year.

(3) The total cost per person participating in the pilot program who successfully obtains a teaching credential, based upon all state, local, federal, and other sources of funding.

(4) The economic status of persons participating in the pilot program.

(5) A description of financial and other resources made available

to each recruitment program by participating school districts or county offices of education, the California Community Colleges, the California State University, and other participating organizations.

(f) Each selected school district or county offices of education shall report to the commission regarding the progress of each cohort of school paraprofessionals, and other information regarding its recruitment program as the commission may direct.

(g) No later than January 1, 1993, and again by January 1, 1994, and by January 1, 1995, the commission shall report to the Legislature regarding the status of the pilot program, including, but not limited to, the number of school paraprofessionals recruited, the academic progress of the school paraprofessionals recruited, the number of school paraprofessionals recruited who are subsequently employed as teachers in the public schools, the degree to which the program meets the demand for bilingual and special education teachers and the degree to which the program or similar programs can meet this need if properly funded and executed, and other effects upon the operation of the public schools.

(h) "Teaching paraprofessional," for the purposes of this article, includes the following job classifications: teacher associate, teacher assistant, teacher aide, pupil service aide, and library aide.

(i) "Local education agency" for the purposes of this article, includes county offices of education that can participate in the pilot programs.

SEC. 2. It is the intent of the Legislature that, commencing with the 1992–93 fiscal year, funding for the California School Paraprofessional Teacher Training Program be allocated to the Commission on Teacher Credentialing for grants to school districts pursuant to Section 69619.1 of the Education Code.

CHAPTER 1221

An act to amend Sections 17209, 17212.1, 17414, 17415, and 17423 of, and to add Sections 17414.1, 17414.2, and 17419 to, the Financial Code, relating to escrow agents.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 17209 of the Financial Code is amended to read:

17209. An application for a license as an escrow agent shall be signed and verified by an authorized officer of the applicant, and such application shall be accompanied by a certified copy of the articles of incorporation and a copy of the bylaws of the proposed licensee. The application shall set forth:

(a) The names and addresses of the incorporators, directors, and officers.

(b) An itemized statement of the estimated receipts and expenditures of the proposed first year of operations.

(c) An audited financial statement showing compliance with Section 17210.

(d) The name and address of the person, or persons, meeting the requirements of Section 17200.8, and a statement supporting such persons' qualifications.

(e) The type of business for which the license is requested.

(f) Any other matters the commissioner may require.

(g) An application for a license as an escrow agent filed with the commissioner after December 31, 1991, shall also include a completed statement of identity and questionnaire, as prescribed by the commissioner, for all stockholders, directors, officers, trustees, managers, and other persons participating in the escrow business directly or indirectly compensated by the escrow agent (other than usual and customary employees who file pursuant to subdivision (d) of Section 17414.1 and Section 17419) and shall also include fingerprints for those persons submitted on the form established by the Department of Justice for requesting state summary criminal history information. The commissioner shall notify the applicant in writing if any of the information received pursuant to this division shows that a person's employment, participation, or ownership interest would be in violation of Section 17414.1, and the escrow agent shall deny the person the employment or interest. If the application is not satisfactorily amended to remove the deficiency within six months of the first notice of deficiency, the application shall be summarily denied. Persons required to file the employment application pursuant to Section 17419 are not required to file the statement of identity and questionnaire described in this section.

SEC. 2. Section 17212.1 of the Financial Code is amended to read:

17212.1. All licensees shall notify the commissioner of any changes in shareholders, directors, officers, trustees, managers, and other persons participating in the escrow business directly or indirectly compensated by the escrow agent (other than usual and customary employees who file pursuant to subdivision (d) of Section 17414.1 and Section 17419), by filing by certified mail, return receipt requested, for those persons a statement of identity and questionnaire, as prescribed by the commissioner for those persons, and fingerprints submitted on the form established by the Department of Justice for requesting state summary criminal history information. Persons who have previously submitted fingerprints to the commissioner may so notify the commissioner and need not submit additional fingerprints unless requested to do so by the commissioner. The commissioner shall notify the escrow agent if any of the information received pursuant to this division shows that the person's employment, participation, or ownership interest would be in violation of Section 17414.1, and upon that notification the escrow

agent shall deny the person the employment or interest. No person shall have access to trust funds or sign checks or otherwise perform any activities related to the processing of escrow transactions after the licensed escrow agent has been notified by the commissioner that the person's employment, participation, or ownership interest is in violation of Section 17414.1. The requirements set forth in this section are in addition to those required under Section 17213.

The commissioner may by regulation require licensees to file at such times as he may specify additional information as he may reasonably require regarding any changes in the information provided in any application filed pursuant to this division.

SEC. 3. Section 17414 of the Financial Code is amended to read:

17414. (a) It is a violation for any person subject to this division or any director, stockholder, trustee, officer, agent, or employee of any such person to do any of the following:

(1) Knowingly or recklessly disburse or cause the disbursal of escrow funds otherwise than in accordance with escrow instructions, or knowingly or recklessly to direct, participate in, or aid or abet in a material way, any activity which constitutes theft or fraud in connection with any escrow transaction.

(2) Knowingly or recklessly make or cause to be made any misstatement or omission to state a material fact, orally or in writing, in escrow books, accounts, files, reports, exhibits, statements, or any other document pertaining to an escrow or escrow affairs.

(b) Any director, officer, stockholder, trustee, employee, or agent of an escrow agent, who abstracts or willfully misappropriates money, funds, trust obligations or property deposited with an escrow agent, is guilty of a felony. Upon conviction, the court shall, in addition to any other punishment imposed, order the person to make full restitution, first to the escrow agent and then to Fidelity Corporation, to the extent it has indemnified the escrow agent. Nothing in this section shall be deemed or construed to repeal, amend, or impair any existing provision of law prescribing a punishment for such an offense.

(c) Any person subject to this division who knows or should have known of a person's involvement in an abstraction or misappropriation of money, funds, trust obligations, or property deposited with a licensed escrow agent shall immediately report the abstraction or misappropriation in writing to the commissioner. No person shall be civilly liable for reporting as required under this subdivision, unless the information provided in the report is false and the person providing false information does so with knowledge and malice. The reports filed under this section, including the identity of the person making the filing, shall remain confidential pursuant to state law.

SEC. 4. Section 17414.1 is added to the Financial Code, to read:

17414.1. (a) Any person who has been convicted of, or pleaded nolo contendere to, a criminal violation, or been held liable in a civil action by final judgment, or administrative action by any public

agency of any of the provisions specified in subdivision (b) within the past 10 years shall not serve in any capacity as an officer, director, stockholder, trustee, agent, or employee of an escrow agent, or in any position involving any duties with an escrow agent, in this state. This subdivision shall apply to any person whose office, employment, ownership interest, or other participation in the business of a licensed escrow agent commenced, or whose criminal conviction, plea, or judgment occurred prior to January 1, 1992.

(b) Subdivision (a) applies to criminal convictions of, pleas of nolo contendere to, or civil or administrative judgments entered for offenses including, but not limited to, the following:

(1) Offenses specified in Chapter 18 (commencing with Section 3350) of Division 1.

(2) Offenses specified in Article 4 (commencing with Section 5300) of Chapter 1 of Division 2.

(3) Offenses specified in Article 8 (commencing with Section 14750) of Chapter 4 of Division 5.

(4) Offenses specified in Chapter 3 (commencing with Section 17400), and Chapter 7 (commencing with Section 17700) of Division 6.

(5) Offenses specified in Chapter 6 (commencing with Section 18435) of Division 7.

(6) Offenses specified in provisions of the laws of the United States added or amended by the federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 (Public Law 101-73).

(7) Offenses involving charges including, but not limited to, robbery, burglary, theft, embezzlement, fraud, fraudulent conversion or misappropriation of property, forgery, bookmaking, receiving stolen property, counterfeiting, controlled substances, checks, credit cards, or computer violations specified in Section 502 of the Penal Code.

(c) On and after January 1, 1992, any person who seeks employment by, or an ownership interest in, or other participation in the business of a licensed escrow agent shall, as a condition to obtaining that employment, interest, or participation, authorize Fidelity Corporation and the commissioner, or both, to have access to that person's state summary criminal history information, as defined in Section 11105 of the Penal Code, for purposes of determining whether the person has a prior conviction of, or pleaded nolo contendere to, a criminal offense specified in subdivision (b).

(d) On or before the 10th day of employment, each escrow agent shall obtain and forward to the commissioner the fingerprints of persons seeking employment by an escrow agent. The fingerprints shall be submitted by certified mail, return receipt requested, on the form established by the Department of Justice for requesting state summary criminal history information. Persons who have previously submitted fingerprints to the commissioner may so notify the commissioner and need not submit additional fingerprints unless

requested to do so by the commissioner. The commissioner shall notify the escrow agent if any of the information received pursuant to this division shows that the person's employment would be in violation of Section 17414.1, and the escrow agent shall deny the person the employment. No person whose employment is in violation of subdivision (a) shall have access to trust funds or sign checks or otherwise perform any activities related to the processing of escrow transactions after the licensed escrow agent has been notified by the commissioner that the person's employment is in violation of subdivision (a).

(e) Any state summary criminal history information obtained pursuant to this section shall be kept confidential and no recipient shall disclose the contents other than for the purpose of determining eligibility for employment by, or acquisition of an ownership interest in, or other participation in the business of a licensed escrow agent.

(f) The authority granted by this section to the commissioner or to Fidelity Corporation shall be in addition to any other authority granted by law to obtain information about any person who is subject to this division. Nothing in this section shall be construed to limit any authority of the commissioner or Fidelity Corporation otherwise provided by law.

(g) Any person who knowingly violates subdivision (a) or (d), including, but not limited to, any escrow agent who permits employment by, or an ownership interest in, or other participation in the business of an escrow agent in violation of subdivision (a) or (d) shall, upon conviction, be subject to punishment as set forth in Section 17700. Any person who knows or should have known of a violation of subdivision (a) or (d) shall immediately report the violation in writing to the commissioner. No person shall be civilly liable for reporting as required under this subdivision, unless the information provided in the report is false and the person providing false information does so with knowledge and malice. The reports filed under this section, including the identity of the person making the filing, shall remain confidential pursuant to state law.

SEC. 5. Section 17414.2 is added to the Financial Code, to read:

17414.2. (a) In response to any written request by an escrow agent or by Fidelity Corporation, any bank, savings association, credit union, any other financial institution, or any other exempt person specified in Section 17006, an escrow agent or Fidelity Corporation may provide a written employment reference that advises of the person's involvement in a crime or act specified in Section 17414 or subdivision (b) of Section 17414.1, or any theft, embezzlement, misappropriation, or other defalcation which has been reported to federal authorities pursuant to federal banking guidelines, or that has been reported to the commissioner or Fidelity Corporation, pursuant to this division. In order for the immunity provided in subdivision (b) to apply, a copy of the written employment reference shall be sent concurrently by the Fidelity Corporation, person, entity, escrow agent, bank, savings association,

credit union, any other financial institution, or exempt person specified in Section 17006 providing the reference, to the last known address of the person concerning whom the reference is provided.

(b) No licensed escrow agent, bank, savings association, credit union, any other financial institution, exempt person specified in Section 17006, or Fidelity Corporation shall be civilly liable for providing an employment reference as specified in subdivision (a), unless the information provided is false and the licensed escrow agent, bank, savings association, credit union, any other financial institution, or exempt person specified in Section 17006, or Fidelity Corporation providing false information does so with knowledge and malice.

SEC. 6. Section 17415 of the Financial Code is amended to read:

17415. (a) If the commissioner, as a result of any examination or from any report made to him or her, shall find that any person subject to this division is in an insolvent condition, is conducting escrow business in such an unsafe or injurious manner as to render further operations hazardous to the public or to customers, has failed to comply with the provisions of Section 17212.1 or 17414.1, has permitted its tangible net worth to be lower than the minimum required by law, has failed to maintain its liquid assets in excess of current liabilities as set forth in Section 17210, or has failed to comply with the bonding requirements of Chapter 2 (commencing with Section 17200) of this division, the commissioner may, by an order addressed to and served by registered or certified mail or by personal service on such person and on any other person having in his or her possession or control any escrowed funds, trust funds or other property deposited in escrow with said person, direct discontinuance of the disbursement of trust funds by the parties or any of them, the receipt of trust funds, the delivery or recording of documents received in escrow, or other business operations. No person having in his or her possession any of these funds or documents shall be liable for failure to comply with the order unless he or she has received written notice of the order. Subject to subdivision (b), the order shall remain in effect until set aside by the commissioner in whole or in part, the person has been adjudged bankrupt, or pursuant to Chapter 6 (commencing with Section 17621) of this division the commissioner has assumed possession of the escrow agent.

(b) Within 15 days from the date of an order pursuant to subdivision (a), the person may request a hearing under the Administrative Procedure Act, Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. Upon receipt of a request, the matter shall be set for hearing to commence within 30 days after such receipt unless the person subject to this division consents to a later date. If no hearing is requested within 15 days after the mailing or service of such notice and none is ordered by the commissioner, the failure to request a hearing shall constitute a waiver of the right to a hearing. Neither the request for a hearing nor the hearing itself shall stay the order issued by the commissioner

under subdivision (a).

SEC. 7. Section 17419 is added to the Financial Code, to read:

17419. On and after January 1, 1992, any person seeking employment with an escrow agent shall complete an employment application on or before the first day of employment which includes, at least, the following information. A copy of the employment application shall be forwarded to the commissioner on or before the first day of the applicant's employment. Persons required to file a statement of identity and questionnaire pursuant to subdivision (f) of Section 17209 or Section 17212.1 are not required to file the employment application set forth in this section. Each person completing the employment application shall be given the notice required by the Information Practices Act (Section 1798.17 of the Civil Code), copies of which may be obtained from the commissioner. Nothing in this section shall limit an escrow agent from requesting additional information from an applicant.

STATEMENT OF IDENTITY AND EMPLOYMENT APPLICATION

1. Exact Full Name

(Please Print or Type) First Name Middle Name Last Name

(Do not use initials or nicknames)

Position to be filled in connection with the preparation of this employment application (e.g., Officer, Manager, Clerk, etc.).

2. Employment for the last 10 years:

From	To	Employer Name	Occupation and Duties
	Present	and Address	

NOTE: Attach separate schedule if space is not adequate.

3. Have you ever been named in any order, judgment or decree of any court or any governmental agency or administrator, temporarily or permanently restraining or enjoining you from engaging in or continuing any conduct, practice or employment?

( ) Yes ( ) No

If the answer is "Yes", please complete the following:

Date of suit:_____ Location of Court: _____
Nature of Suit:_____

4. Have you ever been refused a license to engage in any business in this state or any other state, or has any such license ever been suspended or revoked?

( ) Yes ( ) No

If the answer is "Yes," please complete the following:

State: _____ Title of State Department: _____

Nature of License and Number: _____

5. Have you ever been convicted of or pleaded nolo contendere to a misdemeanor or felony other than traffic violations?

NOTE: "Convicted" includes a verdict of guilty by judge or jury, a plea of guilty or of nolo contendere or a forfeiture of bail. All convictions must be disclosed even if the plea or verdict was thereafter set aside and the charges against you dismissed or expunged or if you have been pardoned. Convictions occurring while you were a minor must be disclosed unless the record of conviction has been sealed under Section 1203.45 of the California Penal Code or Section 781 of the California Welfare and Institutions Code.

( ) Yes ( ) No

If the answer is "Yes" please complete the following:

Date of Case:_____ Location of Court: _____
Nature of Case:_____

6. Have you ever been a defendant in a civil court action other than divorce, condemnation or personal injury?

( ) Yes ( ) No

If the answer is "Yes" please complete the following:

Date of suit_____ Location of Court _____
Nature of Suit_____

7. Have you ever changed your name or ever been known by any name other than that herein listed?
(Including a woman's maiden name)

( ) Yes ( ) No

If so, explain. Change in name through marriage or court order should also be listed.
EXACT DATE OF EACH NAME CHANGE MUST BE LISTED.

_____
_____

8. Have you ever done business under a fictitious firm name either as an individual or in the partnership or corporate form?

( ) Yes ( ) No

If the answer is "Yes" set forth particulars:

_____
_____

9. Have you ever been a subject of a bankruptcy or a petition in bankruptcy?

( ) Yes ( ) No

If the answer is "Yes" give date, title of case, location of bankruptcy filing:

_____

_____

_____

10. Have you ever been refused a bond, or have you ever had a bond revoked or canceled?

( ) Yes ( ) No

If the answer is "Yes" give details:

_____

_____

11. In what capacity will you be employed?_____
(E.g., Clerk, Escrow Officer, Receptionist, etc.)

12. Do you expect to be a party to, or broker or salesman in connection with escrows conducted by the escrow company which is employing you?

( ) Yes ( ) No

If the answer is "Yes" please explain:

_____

_____

_____

NOTE: Attach separate schedule if space is not adequate.

VERIFICATION

I, the undersigned, state that I am the person named in the foregoing Statement of Identity and Employment Application; that I have read and signed said Statement of Identify and Employment Application and know the contents thereof, including all exhibits attached thereto, and that the statements made therein, including any exhibits attached thereto, are true.

Any person who provides false information is guilty of a felony and shall, upon conviction, be fined not more than ten thousand dollars ($10,000) or imprisoned in the State prison for one year or more or in a county jail for not more than one year, or be punished by both such fine and imprisonment. Any person who knows or should have known of a violation of this section shall immediately report the violation in writing to the commissioner.

I certify/declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at _____
(City)

_____
(County) (State)

this _____ day of _____, 19_.

_____
(Signature of Declarant)

SEC. 8. Section 17423 of the Financial Code is amended to read:

17423. (a) The commissioner may, after appropriate notice and opportunity for hearing, by order, censure or suspend for a period not exceeding 12 months, or bar from any position of employment, management, or control any escrow agent, or any other person, if the commissioner finds either of the following:

(1) That the censure, suspension, or bar is in the public interest and that the person has committed or caused a violation of this division or rule or order of the commissioner, which violation was either known or should have been known by the person committing or causing it or has caused material damage to the escrow agent or to the public.

(2) That the person has been convicted of, or pleaded nolo contendere to, a crime, or has been held liable in a civil action by final judgment, or administrative action by any public agency if any crime or civil or administrative action involved findings including, but not limited to, fraud, embezzlement, fraudulent conversion, misappropriation of property, robbery, burglary, theft, forgery, bookmaking, receiving stolen property, counterfeiting, controlled substances, checks, credit cards or computer violations specified in Section 502 of the Penal Code. The commissioner's authority to censure, suspend, or bar under this section is discretionary as to convictions, pleas, and final judgments entered more than 10 years ago. Persons whose convictions, pleas, or final judgments entered less than 10 years ago are prohibited under Section 17414.1 from serving in any capacity as an officer, director, stockholder, trustee, agent, or employee of an escrow agent, or in any position involving any duties with an escrow agent.

(b) Within 15 days from the date of a notice of intention to issue an order pursuant to subdivision (a), the person may request a hearing under the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code). Upon receipt of a request, the matter shall be set for hearing to commence within 30 days after such receipt unless the person subject to this division consents to a later date. If no hearing is requested within 15 days after the mailing or service of such notice and none is ordered by the commissioner, the failure to request a hearing shall constitute a waiver of the right to a hearing.

(c) Upon receipt of a notice of intention to issue an order pursuant to this section, the person who is the subject of the proposed order is immediately prohibited from engaging in any escrow processing activities, including disbursing any trust funds in the escrow agent's possession, custody or control, and the financial institution holding trust funds shall be so notified by service of the notice, accusation and other administrative pleadings. The prohibition against disbursement of trust funds may be set aside, in whole or in part, by the commissioner for good cause.

(d) Fidelity Corporation shall disclose to all licensees the identity of persons who have been censured, suspended, or barred from any

position of employment, management, or control.

(e) Persons suspended or barred under this section are prohibited from participating in any business activity of a licensed escrow agent and from engaging in any business activity on the premises where a licensed escrow agent is conducting escrow business. This subdivision shall not be construed to prohibit suspended or barred persons from having their personal escrow transactions processed by a licensed escrow agent.

(f) This section shall apply retroactively to acts and violations committed up to 10 years before the enactment of this section.

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

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1222

An act to amend Sections 1872.8, 1876.2, and 1876.3 of, to add Article 5.5 (commencing with Section 1875.10) and Article 5.6 (commencing with Section 1875.20) to Chapter 12 of Part 2 of Division 1 of, and to add Sections 1872.95, and 1876.20 to, the Insurance Code, relating to insurance.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991]

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

SECTION 1. Section 1872.8 of the Insurance Code is amended to read:

1872.8. Each insurer doing business in this state shall pay an annual fee to be determined by the commissioner, but not to exceed one dollar ($1) annually for each vehicle insured under an insurance policy it issues in this state, in order to fund increased investigation and prosecution of fraudulent automobile insurance claims. After incidental expenses, 45 percent of those funds received from ninety cents ($0.90) of the assessment fee per insured vehicle shall be

distributed to the Bureau of Fraudulent Claims for enhanced investigative efforts, and 55 percent of the funds shall be distributed to district attorneys for purposes of investigation and prosecution of automobile insurance fraud cases. The commissioner shall award funds to district attorneys according to population. The commissioner may alter this distribution formula as necessary to achieve the most effective distribution of funds. Each local district attorney desiring a portion of those funds shall submit to the commissioner a plan detailing their projected use of any moneys which may be provided. The plan shall include a detailed accounting of assessed funds received and expended in prior years, including at a minimum (1) the amount of funds received and expended; (2) the uses to which those funds were put, including payment of salaries and expenses, purchase of equipment and supplies, and other expenditures by type; (3) results achieved as a consequence of expenditures made, including the number of investigations, arrests, indictments, convictions, and the amounts originally claimed in cases prosecuted compared to payments actually made in those cases; and (4) other relevant information as the commissioner may reasonably require. Any district attorney who fails to submit a plan within 90 days of the commissioner's deadline to submit a plan shall be subject to loss of distribution of the money. The commissioner may consider recommendations and advice of the bureau, in allocating moneys to local district attorneys. Any district attorney that receives funds shall submit an annual report to the commissioner, which may be made public, as to the success of the program that they have administered. The report shall provide information on active investigations, arrests, indictments, and convictions. Both the application for moneys and the distribution of moneys shall be public documents. Information submitted to the commissioner pursuant to this section concerning active cases shall be confidential. The remaining ten cents ($0.10) shall be spent pursuant to Article 6. The funds received under this section shall be deposited in the Insurance Fund and be expended and distributed when appropriated by the Legislature.

In the course of its investigations, the Bureau of Fraudulent Claims shall aggressively pursue all reported incidents of probable fraud and, in addition, shall forward to the appropriate disciplinary body the names of any individuals licensed under the Business and Professions Code who are suspected of actively engaging in fraudulent activity along with all relevant supporting evidence.

SEC. 2. Section 1872.95 is added to the Insurance Code, to read:

1872.95. (a) Within existing resources, the Medical Board of California, the Board of Chiropractic Examiners, and the State Bar shall each designate employees to investigate and report on possible fraudulent activities relating to motor vehicle or disability insurance by licensees of the board or the bar. Those employees shall actively cooperate with the bureau in the investigation of those activities.

(b) The Medical Board of California, the Board of Chiropractic Examiners, and the State Bar shall each report annually, on or before

March 1, to the committees of the Senate and Assembly having jurisdiction over insurance on their activities established pursuant to subdivision (a) for the previous year.

SEC. 3. Article 5.5 (commencing with Section 1875.10) is added to Chapter 12 of part 2 of Division 1 of the Insurance Code, to read:

Article 5.5. Insurance Claims Analysis Bureaus

1875.10. (a) The Legislature finds and declares as follows:

(a) That the business of insurance involves may transactions which have potential for abuse and illegal activities.

(b) That insurers and their policyholders ultimately pay the cost of fraudulent insurance claims.

(c) That the operation of insurance claims analysis bureaus would be to the benefit of the public, regulators, law enforcement, prosecutors, and insurers in suppressing and preventing insurance claims fraud.

(d) That the purpose of insurance claims analysis bureaus is to provide a data service to encourage the identification of utilization patterns by individuals or businesses who provide services in support of insurance claims, and by individual claimants themselves, in order to facilitate the identification and prevention of fraudulent activities.

1875.11. (a) No insurance claims analysis bureau shall conduct any operations in this state without first filing a written application with the commissioner and obtaining a license to act in that capacity.

(b) As used in this section, an insurance claims analysis bureau is an organization, duly licensed pursuant to this article, which collects claims information and data from and disseminates claims information and data to its members or subscribers which is utilized for the purpose of the prevention and suppression of insurance fraud.

1875.12. (a) The commissioner may license an organization as an insurance claims analysis bureau if it meets the following qualifications:

(1) Is a nonprofit corporation organized for the purpose of fraud prevention.

(2) Has at least two years of experience, or has a managing officer with at least two years of experience, determined by the commissioner to be relevant to operation of an insurance claims analysis bureau.

(3) Has a member or subscriber base of sufficient size that is, in the opinion of the commissioner, adequate to assure uniformity in data collection and cost efficiency to the insurer.

(4) Maintains its records in a computerized format.

(b) An applicant seeking a license as an insurance claims analysis bureau shall file with the commissioner the following documents:

(1) A copy of its articles of incorporation, its bylaws, and any rules and regulations governing the conduct of its business.

(2) A list of members or subscribers.

(3) A description of its technical capacity to collect and serve the

volume of data necessary to act as an insurance claims analysis bureau.

(4) A statement establishing that the applicant meets the conditions set forth in subdivision (a).

(5) A certificate signed by an officer of the applicant that it will permit any licensed insurer to become a member or subscriber to the insurance claims analysis bureau.

1875.13. The commissioner shall license an insurance claims analysis bureau by class of claims, if an insurance claims analysis bureau makes application and is appropriately qualified, for the following classes of claims:

(a) Automobile bodily injury, which shall include liability, uninsured motorist, and medical payment.

(b) Automobile physical damage.

(c) Automobile theft.

(d) Fire and allied lines property damage.

(e) General liability bodily injury.

(f) Disability.

(g) Life.

(h) Workers' compensation.

1875.14. An insurance claims analysis bureau shall perform the following functions:

(a) Collect and compile information and data from members or subscribers concerning insurance claims.

(b) Disseminate information to members or subscribers relating to insurance claims for the purpose of preventing and suppressing insurance fraud.

(c) Promote training and education to further insurer investigation, suppression, and prosecution of insurance fraud.

(d) Provide, without fee or charge, to the commissioner, all California data and information contained in the records of the insurance claims analysis bureau in furtherance of the prevention and prosecution of insurance fraud.

1875.15. (a) A licensed insurance claims analysis bureau shall develop rules governing the kind, quality, and frequency of data reporting, which shall be binding on all subscribers or members. The commissioner may require development of new claims categories for the suppression and prevention of fraud.

(b) Every member or subscriber shall report, at a minimum, the following regarding any category of claims:

(1) Name of claimant.

(2) Address of claimant.

(3) Date of accident or incident.

(4) Identification of medical provider, if applicable.

(5) Identification of property repair vendor, if applicable.

(6) Identification of members or subscribers and, if applicable, adjusters.

(7) Identification of attorneys representing claimants, if applicable.

(8) Description of claim.

1875.16. Unless otherwise provided by law, any authorized entity which receives any information furnished pursuant to this article shall not release that information to public inspection (1) until such time as its release is required in connection with a criminal or civil proceeding, or (2) is necessary to analyze and present information for release in an insurance claims analysis bureau's annual report. Any information acquired pursuant to this article shall not be part of any public record nor subject to disclosure under the California Public Records Act.

1875.17. On or before May 1, 1992, and on or before May 1 of each year thereafter, any licensed insurance claims analysis bureau shall file with the department a report on the scope and extent of its activities in this state for the preceding year.

SEC. 4. Article 5.6 (commencing with Section 1875.20) is added to Chapter 12 of Part 2 of Division 1 of the Insurance Code, to read:

Article 5.6. Insurer Fraud Investigation

1875.20. Every insurer admitted to do business in this state shall maintain a unit or division to investigate possible fraudulent claims by insureds or by persons making claims for services or repairs against policies held by insureds.

1875.21. Insurers may maintain the unit or division required by this article using its employees or by contracting with others for that purpose.

1875.22. Insurers shall establish the unit or division required by this article no later than July 1, 1992.

1875.23. For purposes of this article, "unit or division" may include the assignment of fraud investigation to employees whose principal responsibilities are the investigation and disposition of claims. If an insurer creates a distinct unit or division, hires additional employees, or contracts with another entity to fulfill the requirements of this article, the additional cost incurred shall be included as an administrative expense for ratesetting purposes.

SEC. 5. Section 1876.2 of the Insurance Code is amended to read:

1876.2. Every insurer who receives a bodily injury, medical payment, or uninsured motorist claim made under a policy of insurance defined in Section 660 or Section 11622 shall within 20 days of the receipt of that claim deposit that claim information with a licensed insurance claims analysis bureau or, for insurers subject to Section 1876.20, with the Automobile Insurance Claims Depository. The bureau shall establish the claim information to be deposited in its prescribed format for insurers depositing the claim information pursuant to Section 1876.20.

SEC. 6. Section 1876.20 is added to the Insurance Code, to read:

1876.20. Any insurer that is not a member of, or a subscriber to, an insurance claims analysis bureau for automobile bodily injury claims shall report its data and information directly to the

Automobile Insurance Claims Depository.

SEC. 7. Section 1876.3 of the Insurance Code is amended to read:

1876.3. Any information acquired pursuant to this article shall not be part of any public record except as follows: Except as otherwise provided by law, any authorized governmental agency, and insurer, or an agent authorized by an insurer to act on its behalf, which receives any information furnished pursuant to this article shall not release that information to public inspection until such time as its release is required in connection with a criminal or civil proceeding; to analyze and present information for release in the bureau's annual report pursuant to subdivision (h) of Section 1872.9.

Nothing in this section shall prohibit the accumulation and public distribution by the bureau of statistical data if that data does not reveal the identity of specific claimants, injured parties, attorneys, physicians, or other service providers.

CHAPTER 1223

An act to amend Sections 1808.1, 12810, 27360, 27362, and 27363 of, and to add Sections 2430.2, 23116.1, and 27363.5 to, the Vehicle Code, relating to vehicles.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) The number one preventable cause of death and injury of children and young adults is automobile collisions.

(2) Approximately 150 children under the age of 16 years were killed and approximately 30,000 were injured in automobile collisions in California in 1990.

(3) Of the children under the age of four years who died in motor vehicle crashes during the period 1987 to 1989 in California, over 87 percent of these deaths were preventable because the child was riding either entirely unrestrained or improperly restrained.

(4) Infants and young children are not capable of independently operating child passenger safety seats or manual seatbelts, and are not adequately protected by automatic seatbelts or air bags.

(b) In accordance with the recommendations of the California Safety Belt Task Force, it is the intent of the Legislature to encourage police agencies to enforce child safety laws as part of routine traffic enforcement.

SEC. 1.3. Section 1808.1 of the Vehicle Code is amended to read:

1808.1. (a) The prospective employer of a driver who drives a vehicle requiring a class 1, class 2, class A, or class B driver's license,

or a class C license with an endorsement issued pursuant to paragraph (4) of subdivision (a) of Section 15278 or a certificate issued pursuant to Section 2512, 12517, 12519, 12520, 12523, or 12523.5, shall obtain a report showing the driver's current public record as recorded by the department. For purposes of this subdivision, a report is current if it was issued less than 30 days prior to the date the employer employs the driver. The report shall be reviewed, signed, and dated by the employer and maintained at the employer's place of business until receipt of the pull notice system report pursuant to subdivisions (b) and (c). These reports shall be presented upon request to any authorized member of the California Highway Patrol during regular business hours.

(b) The employer of a driver who drives a vehicle requiring a class 1, class 2, class A, or class B driver's license, class C license with an endorsement issued pursuant to paragraph (4) of subdivision (a) of Section 15278, or a certificate issued pursuant to Section 2512, 12517, 12519, 12520, 12523, or 12523.5, shall make a request to the department to participate in a pull notice system, which is a process for the purpose of providing the employer with a report showing the driver's current public record as recorded by the department, and any subsequent convictions, failures to appear, accidents, driver's license suspensions, driver's license revocations, or any other actions taken against the driving privilege or certificate, added to the driver's record while the employer's notification request remains valid and uncanceled.

(c) The employer of a driver of a vehicle requiring a class 1 or class 2 driver's license, or a class 3 driver's license requiring a certificate issued pursuant to Section 2512, 12517, 12519, 12520, 12523, or 12523.5 or a class A or class B driver's license, or a class C driver's license with a hazardous material endorsement, shall, additionally, obtain a periodic report from the department at least every six months, except that an employer who enrolls more than 500 drivers in the pull notice system under a single requester code shall obtain a report at least every 12 months. The employer shall verify that each employee's driver's license has not been suspended or revoked, the employee's traffic violation point count, and whether the employee has been convicted of a violation of Section 23152 or 23153. The report shall be signed and dated by the employer and maintained at the employer's principal place of business. The reports shall be presented upon demand to any authorized representative of the Department of the California Highway Patrol during regular business hours.

(d) Upon the termination of a driver's employment, the employer may notify the department to cancel any reports required by this section.

(e) For the purposes of the pull notice system and periodic report process required by subdivisions (b) and (c), owners, other than owner-operators as defined in Section 3557 of the Public Utilities Code, and employers who drive vehicles described in subdivisions

(b) and (c), shall be enrolled as if they were employees. Family members and volunteer drivers who drive vehicles described in subdivisions (b) and (c) shall also be enrolled as if they were employees.

(f) An employer who, after receiving any driving record pursuant to this section, employs or continues to employ as a driver any person against whom a disqualifying action has been taken regarding his or her driving privilege or required driver's certificate, is guilty of a public offense, and upon conviction thereof, shall be punished by imprisonment in the county jail for not more than six months, by a fine of not more than one thousand dollars ($1,000), or by both that fine and imprisonment.

(g) As part of its inspection of bus maintenance facilities and terminals required at least once every 13 months pursuant to subdivision (c) of Section 34501, the Department of the California Highway Patrol shall determine whether each transit operator, as defined in Section 99210 of the Public Utilities Code, is then in compliance with this section and Section 12804.6, and shall certify each operator found to be in compliance. No funds shall be allocated under Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code to a transit operator which the Department of the California Highway Patrol has not certified under this section.

(h) A request to participate in the pull notice system established by this section shall be accompanied by a fee determined by the department to be sufficient to defray the entire actual cost to the department for the notification service. For the receipt of subsequent reports, the employer shall also be charged a fee established by the department pursuant to Section 1811. Any employer who qualifies under Section 1812 shall be exempt from any fee required under this section. Failure to pay the fee shall result in automatic cancellation of the employer's participation in the notification services.

(i) The department, as soon as feasible, may establish an automatic procedure to provide the periodic reports in subdivision (c) to employers on a regular basis without the need for individual requests.

(j) This section shall not be construed to change the definition of "employer," "employee," or "independent contractor" for any other purpose.

(k) The employer of a driver who is employed as a casual driver is not required to enter that driver's name in the pull notice system, as otherwise required by subdivision (a). However, the employer of a casual driver shall be in possession of a report of the driver's current public record as recorded by the department, prior to allowing a casual driver to drive a vehicle requiring a class 1, class 2, class A, class B or class C driver's license with a hazardous materials endorsement, or a certificate issued pursuant to Section 2512, 12517, 12519, 12520, 12523, or 12523.5. A report is current if it was issued less than six

months prior to the date the employer employs the driver. As used in this subdivision, a driver is employed as a casual driver when the employer has employed the driver less than 30 days during the preceding six months. For purposes of this subdivision, "casual driver" does not include any driver who operates a vehicle that requires a passenger transportation endorsement.

SEC. 1.5. Section 2430.2 is added to the Vehicle Code, to read:

2430.2. (a) "Regional or local entity," as defined by subdivision (c) of Section 2430.1, also includes the transportation planning entity established pursuant to Section 130050.1 of the Public Utilities Code.

(b) This section shall become operative only if Article 3.3 (commencing with Section 2430) is added to this chapter during the first year of the 1991–92 Regular Session.

SEC. 2. Section 12810 of the Vehicle Code is amended to read:

12810. In determining the violation point count, the following shall apply:

(a) Any conviction of failure to stop in the event of an accident in violation of Section 20001 or 20002 shall be given a value of two points.

(b) Any conviction of a violation of Section 23152 or 23153 shall be given a value of two points.

(c) Any conviction of reckless driving shall be given a value of two points.

(d) Any conviction of a violation of subdivision (c) of Section 192 of the Penal Code, or of Section 2800.2, subdivision (b) of Section 21651, subdivision (b) of Section 22348, subdivision (a) of Section 23109, subdivision (c) of Section 23109, or Section 31602 of this code, shall be given a value of two points.

(e) Except as provided in subdivision (g), any other traffic conviction involving the safe operation of a motor vehicle upon the highway shall be given a value of one point.

(f) Any accident in which the operator is deemed by the department to be responsible shall be given a value of one point.

(g) A violation of paragraph (1), (2), (3), or (5) of subdivision (b) of Section 40001 shall not result in a violation point count being given to the driver if the driver is not the owner of the vehicle.

(h) A conviction for only one violation arising from one occasion of arrest or citation shall be counted in determining the violation point count for the purposes of this section.

(i) Any conviction of a violation of Section 14601, 14601.1, 14601.2, or 14601.3 shall be given a value of two points.

(j) Any conviction of a violation of Section 27360 within a 37-month period shall be given a value of one point.

SEC. 2.5. Section 23116.1 is added to the Vehicle Code, to read:

23116.1. (a) Subdivision (a) of Section 23116 shall not be construed as allowing the transportation of any person in the back of any vehicle subject to that section if the applicable federal motor vehicle safety restraint standards are not adopted.

(b) This section shall become operative only if Section 23116 of

the Vehicle Code is amended during the first year of the 1991–92 Regular Session.

SEC. 3. Section 27360 of the Vehicle Code is amended to read:

27360. (a) No parent or legal guardian, when present in a passenger vehicle or motortruck of less than 6,001 pounds unladen weight, shall permit his or her child or ward under the age of four years or weighing less than 40 pounds to be transported upon a highway in the motor vehicle without providing and properly using, for each such child or ward, a child passenger restraint system meeting applicable federal motor vehicle safety standards.

(b) No driver shall transport on a highway any child under four years of age or weighing less than 40 pounds in a passenger vehicle or motortruck of less than 6,001 pounds unladen weight without providing and properly securing the child in a child passenger restraint system meeting applicable federal motor vehicle safety standards. This subdivision does not apply to a driver if the parent or legal guardian of the child is also present in the vehicle and is not the driver.

(c) (1) A first offense under this section is punishable by a fine of one hundred dollars ($100), except that the court may waive the fine if the defendant establishes to the satisfaction of the court that he or she is economically disadvantaged and the court, instead, refers the defendant to a child passenger restraint low-cost purchase or loaner program. If the fine is waived, the court shall nevertheless report the conviction to the department pursuant to Section 1803.

(2) A second or subsequent offense under this section is punishable by a fine of one hundred dollars ($100), no part of which may be waived by the court.

(d) The fines collected for a violation of this section shall be allocated as follows:

(1) Sixty percent to local health departments in the county where the violation occurred, to be used for a child passenger restraint low-cost purchase or loaner program which shall include, but not be limited to, education on the proper installation and use of a child passenger restraint system. The county may contract for the implementation of the program.

Local health departments shall report on an ongoing basis to the Office of Traffic Safety in the Business, Transportation and Housing Agency whenever a child passenger restraint low-cost purchase or loaner program is developed or funded pursuant to subdivision (d). The Office of Traffic Safety shall prepare and distribute to the counties a listing of all child passenger restraint low-cost purchase or loaner programs in the state. Each county shall forward the listing to the courts and county hospitals in that county.

(2) Fifteen percent to the county for the administration of the program.

(3) Twenty-five percent to the city, to be deposited in its general fund except that, if the violation occurred in an unincorporated area, this amount shall be allocated to the county for purposes of

paragraph (1).

SEC. 4. Section 27362 of the Vehicle Code is amended to read:

27362. (a) No manufacturer, wholesaler, or retailer shall sell, offer for sale, or install in any motor vehicle any child passenger restraint system not conforming to all applicable federal motor vehicle safety standards on the date of sale or installation. Responsibility for compliance with this section shall rest with the individual selling, offering for sale, or installing the system. Every person who violates this section is guilty of a misdemeanor and shall be punished as follows:

(1) Upon a first conviction, by a fine not exceeding four hundred dollars ($400) or by imprisonment in the county jail for a period of not more than 90 days, or both.

(2) Upon a second or subsequent conviction, by a fine not exceeding one thousand dollars ($1,000) or by imprisonment in the county jail for a period of not more than 180 days, or both.

(b) The fines collected for a violation of this section shall be allocated as follows:

(1) Sixty percent to local health departments in the county where the violation occurred, to be used for a child passenger restraint low-cost purchase or loaner program which shall include, but not be limited to, education on the proper installation and use of a child passenger restraint system. The county may contract for the implementation of the program.

Local health departments shall report on an ongoing basis to the Office of Traffic Safety in the Business, Transportation and Housing Agency whenever a child passenger restraint low-cost purchase or loaner program is developed or funded pursuant to subdivision (b). The Office of Traffic Safety shall prepare and distribute to the counties a listing of all child passenger restraint low-cost purchase or loan programs in the state. Each county shall forward the listing to the courts and county hospitals in that county.

(2) Fifteen percent to the county for the administration of the program.

(3) Twenty-five percent to the city, to be deposited in its general fund except that, if the violation occurred in an unincorporated area, this amount shall be allocated to the county for purposes of paragraph (1).

SEC. 5. Section 27363 of the Vehicle Code is amended to read:

27363. (a) The court may exempt from the requirements of this article any class of child by age, weight, or size if it is determined that the use of a child passenger restraint system would be impractical by reason of physical unfitness, medical condition, or size. The court may require satisfactory proof of the child's physical unfitness, medical condition, or size.

(b) In case of an emergency, or when a child is being transported in an authorized emergency vehicle, if there is no child passenger restraint system available, a child may be transported without the use of such a system, but the child shall be secured by a seat belt.

SEC. 6. Section 27363.5 is added to the Vehicle Code, to read:

27363.5. (a) Every public or private hospital shall, at the time of or before the discharge of a child under the age of four years, or weighing less than 40 pounds, provide and discuss information on the law requiring child passenger restraint systems to the parents or the person to whom the child is released.

(b) A public or private hospital shall not be responsible for the failure of the parent or person to whom the child is released to use a child passenger restraint system.

SEC. 7. Section 1.3 of this bill incorporates amendments to Section 1808.1 of the Vehicle Code proposed by both this bill and AB 123 and AB 1886. It shall become operative only if (1) this bill, AB 123, and AB 1886 are enacted and become effective on or before January 1, 1992, (2) this bill, AB 123, and AB 1886 each amends Section 1808.1 of the Vehicle Code and (3) this bill is enacted after AB 123 and AB 1886, in which case the amendments to Section 1808.1 of the Vehicle Code proposed by AB 1886 shall remain operative only until the operative date of this bill, at which time Section 1.3 of this bill shall become operative.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1224

An act to add Section 1373.12 to the Health and Safety Code, relating to health care service plans.

[Approved by Governor October 14, 1991 Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 1373.12 is added to the Health and Safety Code, to read:

1373.12. A health care service plan which offers or provides one or more chiropractic services, as defined in Section 7 of the Chiropractic Initiative Act, as a specific chiropractic plan benefit, when those services are not provided pursuant to a contract as described in subdivision (a) of Section 1373.9, shall not refuse to give reasonable consideration to affiliation with chiropractors for provision of services solely on the basis that they are chiropractors. Section 1390 shall not apply to this section.

CHAPTER 1225

An act to add Section 701.4 to the Public Utilities Code, relating to energy resources.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. The Public Utilities Commission shall report to the Legislature on or before December 1, 1992, on the level of fuel and technological diversity achieved through utility resource bidding programs implemented pursuant to Commission Decision 91-06-022 and related decisions. The report shall include a description of policies which affected the fuel and technology mix resulting from the utility resource bidding programs and the need for changes to those policies to ensure that diverse resources are acquired in the future.

SEC. 2. Every major publicly owned electric utility, as determined by the Energy Resources Conservation and Development Commission, shall report to that commission on or before July 1, 1992, on the level and technological diversity achieved through its electric resource acquisition programs. The report which shall be prepared as part of the commission's annual electrical resources report, shall include a description of policies which affected the fuel and technology mix resulting from the utility

resource acquisitions programs and the need for changes to those policies to ensure that diverse resources are acquired in the future. The commission shall report to the Legislature on or before August 15, 1992, summarizing the reports received pursuant to this section.

SEC. 3. Section 701.4 is added to the Public Utilities Code, to read:

701.4. It is the policy of the state and the intent of the Legislature that state and municipal electric resource acquisition programs recognize and include a value for the resource diversity provided by renewable resources.

CHAPTER 1226

An act to amend Sections 25210.8, 25210.59, 25355, 25502.5, 25681.1, 28005, 38901, 53082, and 61600 of, to add Sections 1157.11, 31010.5, 31520.11, and 61601.25 to, to repeal Section 53361.4 of, and to repeal Chapter 2.5 (commencing with Section 58750) of Division 2 of Title 6 of, the Government Code, to amend Sections 6982, 32100, 32100.02, 32100.1, and 32100.5 of the Health and Safety Code, to amend Sections 20206.2, 20207.4, 20395, 20455, and 21551 of the Public Contract Code, to amend Sections 5552, 13118, 26567, and 26583 of, and to add Section 5781.10 to, the Public Resources Code, to repeal Section 18053 of the Public Utilities Code, to amend Section 104.7 of the Streets and Highways Code, and to amend Sections 23670.1, 23811, 24628.5, 24662, 25038, 25041, 25060, 25061, 25091, 25111, 25245, 25280, 25300, 35886, and 35996 of, to repeal Sections 20560.1, 20572, 23222, 23286, 24253, 24353, 24354, 24635, 24763, 24764, 24957, 24958, 24959, 24960, 24961, 24962, 24964, 25036, 25037, 25090, 25114, 25241, 25333, 25403, 35854, and 35885 of, and to repeal Chapter 1 (commencing with Section 20000) of Division 10 of, the Water Code, relating to governmental agencies.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 1157.11 is added to the Government Code, to read:

1157.11. (a) Officers and employees of a county with a population of over 8,000,000, may authorize deductions to be made from their salaries or wages for the purchase of securities issued by any of the following:

(1) The county.

(2) Any joint powers authority created pursuant to an agreement to which the county is a party entered into pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7.

(3) Any public district which is governed by the governing body

of the county.

(4) Any nonprofit public benefit corporation created by the governing body of the county for the purpose of assisting the county in financing capital projects and equipment purchases, provided the corporation is deemed to be an instrumentality of the county for federal income tax purposes.

(b) In each case, the deductions shall be made in accordance with provisions made by the governing body of the county.

(c) For purposes of this section, "securities" includes bonds, notes, warrants, lease or installment sale obligations represented by certificates of participation, or other evidences of indebtedness.

(d) The auditor, the treasurer, and other disbursing officers of the county are authorized to recognize and act upon the requests for wage or salary deductions and to establish special accounts for each officer or employee so that sufficient funds may be accumulated to the credit of the officer or employee for the purchase of securities as authorized by this section. All funds so accumulated are trust funds.

SEC. 1.5. Section 25210.8 of the Government Code is amended to read:

25210.8. Notwithstanding any other provision in this chapter, the board of supervisors may establish zones within any county service area with tax rates, service charges, benefit assessments, fire suppression assessments, or connection charges varying with the extent of benefit to each zone derived from services provided to the property within each zone or with the availability of other funds within a zone.

SEC. 2. Section 25210.59 of the Government Code is amended to read:

25210.59. A board of supervisors as governing body of a county service area or zone thereof which provides fire protection services shall have the powers authorized by Sections 13910 to 13919, inclusive, of the Health and Safety Code.

SEC. 3. Section 25355 of the Government Code is amended to read:

25355. The board may accept or reject any gift, bequest, or devise made to or in favor of the county, or to or in favor of the board in trust for any public purpose. The board may delegate to any county officer or employee the power to accept any gift, bequest, or devise made to or in favor of the county. The officer or employee shall file with the board each quarter a report that describes the source and value of each gift valued in excess of ten thousand dollars ($10,000) or any other amount as determined by the board. The board may hold and dispose of the property and the income and increase thereof for those lawful uses and purposes as are prescribed in the terms of the gift, bequest, or devise. In accounting for or inventorying gifts, bequests, or devises, the officer or employee shall follow the appropriate procedures contained in the State Controller's manual entitled "Accounting Standards and Procedures

for Counties."

SEC. 4. Section 25502.5 of the Government Code is amended to read:

25502.5. (a) In counties having a population of 200,000 or more, the board of supervisors may authorize the purchasing agent to engage independent contractors to perform services for the county or county officers, with or without the furnishing of material, when the aggregate cost does not exceed one hundred thousand dollars ($100,000).

(b) The board of supervisors may establish rules and regulations to effectuate the purposes of this section.

SEC. 4.5. Section 25681.1 of the Government Code is amended to read:

25681.1. A county may reclaim public and private lands therein by levees, bulkheads, breakwaters, fills, embankments, basins, drains, canals, excavations, sluices, pipes, watergates, pumping plants and all works and structures useful therefor. This work is a local improvement and a county affair. The costs of reclamation shall be borne solely by the lands reclaimed.

This section shall not be construed as affecting any public district or public entity now or hereafter established and having similar powers.

SEC. 5. Section 28005 of the Government Code is amended to read:

28005. The auditor shall not draw his or her warrant for the salary of any officer for any month until the officer has first filed with him or her the forms required by Section 24353.

SEC. 6. Section 31010.5 is added to the Government Code, to read:

31010.5. Service as an elected director of a recreation and park district established pursuant to Chapter 4 (commencing with Section 5780) of Division 5 of the Public Resources Code shall not be considered an incompatible office with service on a municipal advisory council established pursuant to Section 31010.

SEC. 7. Section 31520.11 is added to the Government Code, to read:

31520.11. As an alternative to the terms of office specified in Section 31520.1, the County of Contra Costa may, if the board of supervisors adopts a resolution, have terms of office which expire as follows:

Seat number 1, the treasurer, who serves on the board of retirement ex officio, and whose term of office on the retirement board expires with his or her term of office as treasurer.

Seats 2, 4, and 8 expire June 30, 1992, and every three years thereafter.

Seats 3, 5, and 9 expire June 30, 1993, and every three years thereafter.

Seats 6, 7, and alternate expire June 30, 1994, and every three years thereafter.

SEC. 7.5. Section 38901 of the Government Code is amended to read:

38901. A city may reclaim public and private lands therein by levees, bulkheads, breakwaters, fills, embankments, basins, drains, canals, excavations, sluices, pipes, watergates, pumping plants, and all works and structures useful therefor. This work is a local improvement and a municipal affair. The costs of reclamation shall be borne solely by the lands reclaimed.

This section shall not be construed as affecting any public district or public entity now or hereafter established and having similar powers.

SEC. 8. Section 53082 of the Government Code is amended to read:

53082. (a) By July 1, 1991, local agencies shall refund any sewer service fees collected for which no services were delivered.

(b) Any sewer service fees collected by a local agency from any person for which no service has been provided shall be refunded in accordance with subdivisions (c) and (d).

(c) In cases where a person paid fees as described in subdivision (a) and is still residing at the same location, it shall be the responsibility of the local agency, upon determination that the premises is not connected to the sewer system, to return fees in their entirety, regardless of the amount of time the fees were wrongly collected. For the purposes of this section, if the exact amount of the charges is not readily available, the amount of the refund may be calculated by averaging the rates paid by payers in the same classification during the time period in which the fees were collected.

(d) In cases where a person paid fees as described in subdivision (a) but is not still residing at the same location, the payer of the fees may make a claim for a refund to the agency collecting the fees.

(e) No statute of limitations shall apply to claims for fees paid before January 1, 1992. For fees paid on or after January 1, 1992, claims shall be filed within 180 days of the date of payment.

(f) As used in this section, "sewer service fees" means periodic fees, tolls, rates, rentals, or other charges imposed by local agencies for the purpose of covering the cost to provide sewer service or to operate, maintain, repair, and replace sewer systems and facilities, but do not include any of the following:

(1) Sewer standby or availability charges or assessments.

(2) Special assessments levied in accordance with one or a combination of the Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code), the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code), or the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code).

(3) Sewer connection charges or sewer capacity charges paid in

conjunction with or as a condition of approving an application for sewer service.

SEC. 8.5. Section 53361.4 of the Government Code is repealed.

SEC. 8.7. Chapter 2.5 (commencing with Section 58750) of Division 2 of Title 6 of the Government Code is repealed.

SEC. 9. Section 61600 of the Government Code is amended to read:

61600. A district formed under this law may exercise the powers granted for any of the following purposes designated in the petition for formation of the district and for any other of the following purposes that the district shall adopt:

(a) To supply the inhabitants of the district with water for domestic use, irrigation, sanitation, industrial use, fire protection, and recreation.

(b) The collection, treatment, or disposal of sewage, waste, and storm water of the district and its inhabitants.

(c) The collection or disposal of garbage or refuse matter.

(d) Protection against fire.

(e) Public recreation including, but not limited to, aquatic parks and recreational harbors, equestrian trails, playgrounds, golf courses, swimming pools, or recreational buildings.

(f) Street lighting.

(g) Mosquito abatement.

(h) The equipment and maintenance of a police department or other police protection to protect and safeguard life and property.

(i) To acquire sites for, construct, and maintain library buildings, and to cooperate with other governmental agencies for library service.

(j) The opening, widening, extending, straightening, surfacing, and maintaining, in whole or in part, of any street in the district, subject to the consent of the governing body of the county or city in which the improvement is to be made.

(k) The construction and improvement of bridges, culverts, curbs, gutters, drains, and works incidental to the purposes specified in subdivision (j), subject to the consent of the governing body of the county or city in which the improvement is to be made.

(*l*) The conversion of existing overhead electric and communication facilities to underground locations, which facilities are owned and operated by either a "public agency" or a "public utility," as defined in Section 5896.2 of the Streets and Highways Code, and to take proceedings for and to finance the cost of the conversion in accordance with Chapter 28 (commencing with Section 5896.1) of Part 3 of Division 7 of the Streets and Highways Code, subject to the consent of the public agency or public utility responsible for the owning, operation, and maintenance of the facilities. Nothing in this section gives a district formed under this law the power to install, own, or operate the facilities that are described in this subdivision.

(m) To contract for ambulance service to serve the residents of

the district as convenience requires, if a majority of the voters in the district, voting in an election thereon, approve.

(n) To provide and maintain public airports and landing places for aerial traffic.

(o) To provide transportation services.

SEC. 9.1. Section 61600 of the Government Code is amended to read:

61600. A district formed under this law may exercise the powers granted for any of the following purposes designated in the petition for formation of the district and for any other of the following purposes that the district shall adopt:

(a) To supply the inhabitants of the district with water for domestic use, irrigation, sanitation, industrial use, fire protection, and recreation.

(b) The collection, treatment, or disposal of sewage, waste, and storm water of the district and its inhabitants.

(c) The collection or disposal of garbage or refuse matter.

(d) Protection against fire.

(e) Public recreation including, but not limited to, aquatic parks and recreational harbors, equestrian trails, playgrounds, golf courses, swimming pools, or recreational buildings.

(f) Street lighting.

(g) Mosquito abatement.

(h) The equipment and maintenance of a police department or other police protection to protect and safeguard life and property.

(i) To acquire sites for, construct, and maintain library buildings, and to cooperate with other governmental agencies for library service.

(j) The opening, widening, extending, straightening, surfacing, and maintaining, in whole or in part, of any street in the district, subject to the consent of the governing body of the county or city in which the improvement is to be made.

(k) The construction and improvement of bridges, culverts, curbs, gutters, drains, and works incidental to the purposes specified in subdivision (j), subject to the consent of the governing body of the county or city in which the improvement is to be made.

(*l*) The conversion of existing overhead electric and communication facilities to underground locations, which facilities are owned and operated by either a "public agency" or a "public utility," as defined in Section 5896.2 of the Streets and Highways Code, and to take proceedings for and to finance the cost of the conversion in accordance with Chapter 28 (commencing with Section 5896.1) of Part 3 of Division 7 of the Streets and Highways Code, subject to the consent of the public agency or public utility responsible for the owning, operation, and maintenance of the facilities. Nothing in this section gives a district formed under this law the power to install, own, or operate the facilities that are described in this subdivision.

(m) To contract for ambulance service to serve the residents of

the district as convenience requires, if a majority of the voters in the district, voting in an election thereon, approve.

(n) To provide and maintain public airports and landing places for aerial traffic.

(o) To provide transportation services.

(p) To exercise the powers and duties of a planning commission within the territorial jurisdiction of the district if authorized by the legislative body of the city or county pursuant to Section 65101. Notwithstanding any other provision of law, service as a member of the board of directors shall not be considered incompatible with service as a member of a planning commission.

SEC. 9.3. Section 61600 of the Government Code is amended to read:

61600. A district formed under this law may exercise the powers granted for any of the following purposes designated in the petition for formation of the district and for any other of the following purposes that the district shall adopt:

(a) To supply the inhabitants of the district with water for domestic use, irrigation, sanitation, industrial use, fire protection, and recreation.

(b) The collection, treatment, or disposal of sewage, waste, and storm water of the district and its inhabitants.

(c) The collection or disposal of garbage or refuse matter.

(d) Protection against fire.

(e) Public recreation including, but not limited to, aquatic parks and recreational harbors, equestrian trails, playgrounds, golf courses, swimming pools, or recreational buildings.

(f) Street lighting.

(g) Mosquito abatement.

(h) The equipment and maintenance of a police department or other police protection to protect and safeguard life and property.

(i) To acquire sites for, construct, and maintain library buildings, and to cooperate with other governmental agencies for library service.

(j) The opening, widening, extending, straightening, surfacing, and maintaining, in whole or in part, of any street in the district, subject to the consent of the governing body of the county or city in which the improvement is to be made.

(k) The construction and improvement of bridges, culverts, curbs, gutters, drains, and works incidental to the purposes specified in subdivision (j), subject to the consent of the governing body of the county or city in which the improvement is to be made.

(*l*) The conversion of existing overhead electric and communication facilities to underground locations, which facilities are owned and operated by either a "public agency" or a "public utility," as defined in Section 5896.2 of the Streets and Highways Code, and to take proceedings for and to finance the cost of the conversion in accordance with Chapter 28 (commencing with Section 5896.1) of Part 3 of Division 7 of the Streets and Highways

Code, subject to the consent of the public agency or public utility responsible for the owning, operation, and maintenance of the facilities. Nothing in this section gives a district formed under this law the power to install, own, or operate the facilities that are described in this subdivision.

(m) To contract for ambulance service to serve the residents of the district as convenience requires, if a majority of the voters in the district, voting in an election thereon, approve.

(n) To provide and maintain public airports and landing places for aerial traffic.

(o) To provide transportation services.

(p) To abate graffiti.

SEC. 9.5. Section 61600 of the Government Code is amended to read:

61600. A district formed under this law may exercise the powers granted for any of the following purposes designated in the petition for formation of the district and for any other of the following purposes that the district shall adopt:

(a) To supply the inhabitants of the district with water for domestic use, irrigation, sanitation, industrial use, fire protection, and recreation.

(b) The collection, treatment, or disposal of sewage, waste, and storm water of the district and its inhabitants.

(c) The collection or disposal of garbage or refuse matter.

(d) Protection against fire.

(e) Public recreation including, but not limited to, aquatic parks and recreational harbors, equestrian trails, playgrounds, golf courses, swimming pools, or recreational buildings.

(f) Street lighting.

(g) Mosquito abatement.

(h) The equipment and maintenance of a police department or other police protection to protect and safeguard life and property.

(i) To acquire sites for, construct, and maintain library buildings, and to cooperate with other governmental agencies for library service.

(j) The opening, widening, extending, straightening, surfacing, and maintaining, in whole or in part, of any street in the district, subject to the consent of the governing body of the county or city in which the improvement is to be made.

(k) The construction and improvement of bridges, culverts, curbs, gutters, drains, and works incidental to the purposes specified in subdivision (j), subject to the consent of the governing body of the county or city in which the improvement is to be made.

(*l*) The conversion of existing overhead electric and communication facilities to underground locations, which facilities are owned and operated by either a "public agency" or a "public utility," as defined in Section 5896.2 of the Streets and Highways Code, and to take proceedings for and to finance the cost of the conversion in accordance with Chapter 28 (commencing with

Section 5896.1) of Part 3 of Division 7 of the Streets and Highways Code, subject to the consent of the public agency or public utility responsible for the owning, operation, and maintenance of the facilities. Nothing in this section gives a district formed under this law the power to install, own, or operate the facilities that are described in this subdivision.

(m) To contract for ambulance service to serve the residents of the district as convenience requires, if a majority of the voters in the district, voting in an election thereon, approve.

(n) To provide and maintain public airports and landing places for aerial traffic.

(o) To provide transportation services.

(p) To exercise the powers and duties of a planning commission within the territorial jurisdiction of the district if authorized by the legislative body of the city or county pursuant to Section 65101. Notwithstanding any other provision of law, service as a member of the board of directors shall not be considered incompatible with service as a member of a planning commission.

(q) To abate graffiti.

SEC. 10. Section 61601.25 is added to the Government Code, to read:

61601.25. In addition to the purposes authorized by this chapter, the Board of Directors of the Bear Valley Community Services District may, pursuant to Section 61601, exercise the following powers:

(a) Provide, maintain, operate, and contract for facilities and services for the control, removal, and eradication of local pine bark beetle infestations in accordance with any required plan or program approved by the Department of Forestry and Fire Protection to ensure consistency with the policies of the Board of Forestry.

(b) Acquire, construct, improve, or maintain mail receptacle facilities for mail delivery services to the district and its inhabitants.

SEC. 11. Section 6982 of the Health and Safety Code is amended to read:

6982. (a) Notwithstanding Section 6952, the West Bay Sanitary District may use the procedures in this chapter to provide alternative or innovative waste water technologies in the district's jurisdiction.

(b) The determination of a public health officer pursuant to Section 6955.1 shall include written findings, adopted by the district board of directors, regarding the existing or potential public health hazard.

(c) If the district uses the procedures in this chapter to provide alternative or innovative waste water technologies pursuant to this section, the district shall submit to the Legislature, by January 1, 1991, a report on the effectiveness of alternative waste water technologies and the procedures in this chapter, recommend changes, if any in the requirements, and make recommendations as to the desirability of continuing the requirements after January 1, 1992.

(d) "Alternative or innovative waste water technologies" means

either (1) an onsite waste water disposal system, as defined in Section 6952, or (2) such a system in conjunction with communitywide sewer or sewage systems, if one or more of the components of the system is located on or in close proximity to the real property and employs innovative or alternative waste water technologies, including, but not limited to, grinder pump pressure sewer systems, septic tank effluent pump pressure sewer systems, vacuum sewer systems, or small-diameter gravity septic tank systems.

SEC. 12. Section 32100 of the Health and Safety Code is amended to read:

32100. The elective officers of a local hospital district shall be a board of hospital directors consisting of five members, each of whom shall be a registered voter residing in the district and whose term shall be four years, with the exception of the first board. The first board of directors shall be appointed, upon the formation of the district, by the board of supervisors of the county in which the land or a greater part of the land in the district is situated. Upon appointment, the first board shall, by lot, designate two members who shall leave office when their successors take office pursuant to Section 23556 of the Elections Code and three members who shall leave office two years thereafter. Any vacancy upon the board shall be filled by the methods prescribed in Section 1780 of the Government Code.

SEC. 13. Section 32100.02 of the Health and Safety Code is amended to read:

32100.02. The election of directors to fill the additional vacancies on the board created by expansion shall be an election at large. The director elected at the election but receiving the lesser number of votes in the election shall hold office until a successor takes office pursuant to Section 23556 of the Elections Code, and the director elected at the election receiving the greater number of votes shall hold office until two years thereafter.

SEC. 14. Section 32100.1 of the Health and Safety Code is amended to read:

32100.1. A petition for election of directors by zones may be signed and filed with the board of directors by registered voters residing within a local hospital district, equal in number to at least 15 percent of the number of votes cast in that district for the office of Governor at the last preceding election at which a Governor was elected. Upon receipt of this petition the board of directors shall, by resolution, divide the local hospital district into zones and number the zones consecutively.

Alternatively, and without a petition, the board of directors may adopt a resolution to divide the district into zones and number the zones consecutively.

In establishing these zones the board of directors shall provide for representation in accordance with population and geographic factors of the entire area of the local hospital district. The board of directors

shall fix the time and place for a hearing on the proposed establishment of zones. At this hearing any elector of the district may present his or her views and plans in relation to the proposed zoning, but the board of directors shall not be bound thereby and their decision, in the resolution adopted, shall be final.

After the hearing and final determination by the board of directors the board shall then prepare a measure to be printed on the ballots used at the next general hospital district election, or at a special election to be held for that purpose. The measure shall be printed on the ballots substantially as follows:

"Shall members of the board of directors be elected by zones, as described in the resolution of the board of directors dated _____?", with the words "Yes" and "No" so printed in connection therewith that the voters may express their choice.

The county clerk of the organizing county shall accept arguments for and against the measure to be mailed to each registered voter in the district, in accordance with the procedure in Article 3 (commencing with Section 3780) of Chapter 2 of Division 4 of the Elections Code.

The returns of the election shall be canvassed and declared as at other general hospital district elections, and if it appears that a majority of the votes cast in the election are in favor of the measure the board of directors shall by resolution declare the zones established and shall describe the boundaries of the zones. At the expiration of the terms of office of the members of the board of directors then in office, and thereafter, these members of the board of directors shall be elected by zones. If, at the expiration of the terms of office, three members of the board of directors are to be elected, those three members shall be elected from the zones designated by odd numbers; if two members are to be elected, those two members shall be elected from zones designated by even numbers.

One member of the board of directors shall be elected by the electors of each of the zones. No person shall be eligible to hold the office of member of the board of directors unless he or she shall have resided in the zone from which he or she is elected for 90 days next preceding the date of the election.

The formation of a local hospital district may provide for the election of members of the board of directors by zones as above provided for by substantially including in the petition for formation the provisions hereinabove required to be included in the measure, in which event it shall not be necessary to hold the election above provided for, and the members of the board of directors shall be elected from the zones as described in the petition, except that the first board of directors shall be appointed, upon the formation of the district, by the board of supervisors of the county in which the land or a greater part of the land in the district is situated. One member shall be appointed from each zone.

The terms of the members of the first board of directors appointed under the provisions of this section shall be determined as follows:

The members appointed from the zones designated by odd numbers in the petition shall hold office for four years and the members appointed from the zones designated by even numbers in the petition shall hold office for two years. Thereafter, the term of office for all members shall be four years.

Any vacancy upon the board shall be filled by appointment by the remaining members of the board, from the zone left unrepresented on the board of directors. Any person appointed to fill the vacancy shall hold office for the unexpired term.

SEC. 15. Section 32100.5 of the Health and Safety Code is amended to read:

32100.5. An election which shall be known as the hospital district general election, shall be held in each local hospital district on the the first Tuesday after the first Monday in November in each even-numbered year, at which a successor shall be chosen to each officer whose term shall expire when the successor takes office pursuant to Section 23556 of the Elections Code. The hospital district general election shall be consolidated with the statewide general election pursuant to Chapter 4 (commencing with Section 23300), Part 2, Division 14 of the Elections Code.

The person receiving the highest number of votes for each office to be filled at such election shall be elected thereto. The term of office of each elective officer of the district elected, shall be four years, or until his or her successor is elected and has qualified.

SEC. 16. Section 20206.2 of the Public Contract Code is amended to read:

20206.2. Plans and specifications when once adopted shall not be altered or changed in any manner whereby the cost of the proposed work is increased, except by a majority vote of the board.

SEC. 17. Section 20207.4 of the Public Contract Code is amended to read:

20207.4. All contracts shall be made with the lowest responsible bidder. Bidders for construction contracts shall give bonds for the faithful performance of the construction contract.

SEC. 18. Section 20395 of the Public Contract Code is amended to read:

20395. In any county which has appointed a road commissioner pursuant to Section 2006 of the Streets and Highways Code, the board may authorize the road commissioner to have any work upon county highways done under his or her supervision and direction. The work may be done in any of the following ways:

(a) By letting a contract covering both work and material. In that event, the contract shall be let to the lowest responsible bidder as provided in this article.

(b) By purchasing the material and letting a contract for the performance of the work. In that event, the material shall be bought at the lowest possible cost and the contract let to the lowest responsible bidder as provided in this article.

(c) By purchasing the material and having the work done by day

labor, in which case advertising for bids is not required.

(d) (1) By authorizing the county road commissioner to execute changes for any such contract in an amount not to exceed five thousand dollars ($5,000) for contracts of fifty thousand dollars ($50,000) or less, or 10 percent for contracts over fifty thousand dollars ($50,000) but not to exceed two hundred fifty thousand dollars ($250,000). In no event shall any such change exceed a net total addition of twenty-five thousand dollars ($25,000).

(2) For contracts whose original cost exceeds two hundred fifty thousand dollars ($250,000), the extra cost for any change or addition to the work so ordered shall not exceed twenty-five thousand dollars ($25,000), plus 1 percent of the amount of the original contract costs in excess of two hundred fifty thousand dollars ($250,000). In no event shall any such change or alteration exceed one hundred thousand dollars ($100,000).

(e) By purchasing the material and letting a contract for the work or by letting a contract covering both work and material without advertising for bids when the estimated cost of emergency work necessitated by the imminence or occurrence of a landslide, flood, storm damage, or other emergency exceeds twenty-five thousand dollars ($25,000) and the public interest and necessity demand immediate action to safeguard life, health, or property.

SEC. 19. Section 20455 of the Public Contract Code is amended to read:

20455. (a) After construction has begun, the legislative body, or the superintendent of streets if authorized by the legislative body, may order changes in the work without the necessity of a hearing. The order shall be in writing, and the amount of any change ordered shall not exceed five thousand dollars ($5,000) when the total amount of the original contract does not exceed fifty thousand dollars ($50,000), nor 10 percent of the amount of any original contract that exceeds fifty thousand dollars ($50,000), but does not exceed two hundred fifty thousand dollars ($250,000).

(b) For contracts whose original cost exceeds two hundred fifty thousand dollars ($250,000), the extra cost for any change or addition to the work so ordered shall not exceed twenty-five thousand dollars ($25,000), plus 1 percent of the amount of the original contract costs in excess of two hundred fifty thousand dollars ($250,000). In no event shall any such change or alteration exceed one hundred thousand dollars ($100,000).

(c) The limitations on the cost of changes permitted by this section shall not apply where (1) the change is requested in writing by the owner of property subject to assessment for the improvement under construction and the nature of the change requested is such that the cost thereof will be assessed exclusively against the property of the person requesting the change, or (2) the change in the work will not adversely affect the benefiting property and any increase in the cost resulting from the changes will be paid by the city and will not be assessed against the property within the assessment district.

SEC. 20. Section 21551 of the Public Contract Code is amended to read:

21551. (a) All contracts for the construction of any unit of work estimated to cost over ten thousand dollars ($10,000) shall be let to the lowest responsible bidder in accordance with Article 3.5 (commencing with Section 20120) of Chapter 1.5. If cost of the project or service will not exceed ten thousand dollars ($10,000), the district may have the work done by force account. The district may purchase in the open market, without advertising for bid, materials and supplies for use in any work either under contract or by force account.

(b) The board of directors may, by ordinance, resolution, or board order, authorize the county engineer or other county officer to order changes or additions in work being performed under construction contract. When so authorized, any change or addition in the work shall be ordered in writing by the county engineer, or other designated officer, and the extra cost for any change or addition to the work so ordered shall not exceed five thousand dollars ($5,000) when the total amount of the original contract does not exceed fifty thousand dollars ($50,000), nor 10 percent of the amount of any original contract that exceeds fifty thousand dollars ($50,000), but does not exceed two hundred fifty thousand dollars ($250,000).

(c) For contracts whose original cost exceeds two hundred fifty thousand dollars ($250,000), the extra cost for any change or addition to the work so ordered shall not exceed twenty-five thousand dollars ($25,000), plus 1 percent of the amount of the original contract costs in excess of two hundred fifty thousand dollars ($250,000). In no event shall any such change or alteration exceed one hundred thousand dollars ($100,000).

SEC. 21. Section 5781.10 is added to the Public Resources Code, to read:

5781.10. Service on a municipal advisory council established pursuant to Section 31010 of the Government Code shall not be considered an incompatible office with service as an elected director of a recreation and park district created pursuant to this chapter.

SEC. 22. Section 5552 of the Public Resources Code is amended to read:

5552. The controller is the custodian of the funds of the district and shall make payments by check or by warrant drawn upon the district's depositories for obligations that have been first approved by a majority of the board of directors at a meeting of the board of directors. The board of directors also may, by resolution and under any terms and conditions which it may prescribe in the resolution, authorize the controller to pay demands against the district, without the prior, specific approval of the board, that are for any purpose for which an expenditure has been previously authorized in the district's adopted budget and which do not exceed the amount of expenditure so authorized. Demands so paid shall be presented to the board of directors at the next regular meeting for its review and approval. If

the funds of the district are maintained solely in the county treasury, the county auditor shall exercise the powers otherwise conferred by this section on the controller.

The board of directors shall by ordinance or resolution authorize signatories for checks or warrants drawn in payment of obligations and demands against the district. Authorized signatories shall be selected from members of the board of directors of the district, the general manager of the district, the administrative secretary, or any other officers and employees which may be designated by the board.

The controller shall keep an account of all receipts and disbursements, and shall deposit all money received by him or her in a depository or depositories selected by the board of directors.

SEC. 22.5. Section 13118 of the Public Resources Code is amended to read:

13118. Any bonds issued by any area organized under this division are hereby given the same force, value, and use as bonds issued by any municipality and shall be exempt from all taxation within the state.

All bonds issued by any area payable from taxes are legal investments for all trust funds, for the trust funds of all insurance companies, the state school funds, and any funds that may be invested in bonds of cities, counties, cities and counties, school districts, or municipalities in the state.

SEC. 23. Section 26567 of the Public Resources Code is amended to read:

26567. At the close of the hearing or within 60 days thereafter, the legislative body may proceed by resolution to order the formation of the proposed district. The resolution shall appoint five owners of real property within the district to the initial board of directors for terms not to exceed four years, or, as an alternative to the appointment of five owners of real property within the district, the legislative body may appoint itself to act as the board of directors. If the legislative body appoints itself as the board of directors, Section 26583 shall not apply. If owners of real property within the district are appointed as the initial board of directors, then following the initial term, the board of directors shall be elected as provided by Section 26583. This section shall apply to all districts formed on or after January 1, 1980.

SEC. 24. Section 26583 of the Public Resources Code is amended to read:

26583. Following the four-year term of the initially appointed board of directors formed pursuant to Section 26567 and composed of owners of real property within the district, the board of directors shall be composed of five elected directors. The term of office of directors shall be four years. The expiration of the term of any director shall not constitute a vacancy and he or she shall hold office until his or her successor has qualified. Elections shall be called and conducted, and the results canvassed, returned, and declared pursuant to the Uniform District Election Law (commencing with Section 23500 of the Elections Code). This section shall not apply to

a district where the legislative body has appointed itself as the board of directors.

SEC. 24.5. Section 18053 of the Public Utilities Code is repealed.

SEC. 25. Section 104.7 of the Streets and Highways Code is amended to read:

104.7. (a) Unless otherwise provided by statute, when requested by a city, county, or special district, the department shall provide information regarding, and shall lease, unoccupied, unimproved property that is held for future highway purposes to the city, county, or special district within which the property is located. The city, county, or special district may use the leased property first for agricultural and community garden purposes, and second for recreational purposes, on terms and conditions not unreasonably inhibiting the use of the property, including, but not limited to, assumption of liability and installation and removal of improvements. The lease shall be for one dollar ($1) per year for not less than one year and shall be renewable.

The city, county, or special district may sublease the property for agricultural or recreational purposes upon prior written notification to the department, and may proceed with the sublease unless disapproved by the department within 10 working days after the notice is sent to the department. The first priority for a sublease shall be given to the owner of property contiguous to the leased land.

In a sublease of the property, the city, county, or special district may charge rental fees at least sufficient to pay its administrative costs. All money received by the city, county, or special district under a sublease, less administrative costs, shall be transmitted to the department for deposit in the State Highway Account.

(b) Unoccupied, unimproved property which has commercial, industrial, or residential use as its most feasible or best use, as determined by the department, are not subject to this section.

(c) The Legislature finds and declares that the lease of unoccupied, unimproved property pursuant to this section serves a public purpose.

SEC. 26. Chapter 1 (commencing with Section 20000) of Division 10 of the Water Code is repealed.

SEC. 26.5. Section 20560.1 of the Water Code is repealed.

SEC. 27. Section 20572 of the Water Code is repealed.

SEC. 28. Section 23222 of the Water Code is repealed.

SEC. 29. Section 23286 of the Water Code is repealed.

SEC. 30. Section 23670.1 of the Water Code is amended to read:

23670.1. Upon approval by two-thirds of the board, the assessment may be made payable in not more than 20 annual installments.

SEC. 31. Section 23811 of the Water Code is amended to read:

23811. Upon approval by two-thirds of the board, the improvement district warrants shall be made payable over not to exceed a period of 20 years and shall specify a rate of interest fixed at the time of their issuance not exceeding 8 percent per year.

SEC. 32. Section 24253 of the Water Code is repealed.

SEC. 33. Section 24353 of the Water Code is repealed.

SEC. 34. Section 24354 of the Water Code is repealed.

SEC. 35. Section 24628.5 of the Water Code is amended to read:

24628.5. Warrants payable at a future time or times may also be issued to obtain funds or property for any lawful purpose of the district.

SEC. 36. Section 24635 of the Water Code is repealed.

SEC. 37. Section 24662 of the Water Code is amended to read:

24662. A district may enter into agreement either individually or collectively with the holder or holders of any registered warrants fixing the time of, method of, and allocation of funds for the payment of the warrants and may in this agreement or otherwise waive the time of commencing any action or proceeding thereon.

SEC. 38. Section 24763 of the Water Code is repealed.

SEC. 39. Section 24764 of the Water Code is repealed.

SEC. 40. Section 24957 of the Water Code is repealed.

SEC. 41. Section 24958 of the Water Code is repealed.

SEC. 42. Section 24959 of the Water Code is repealed.

SEC. 43. Section 24960 of the Water Code is repealed.

SEC. 44. Section 24961 of the Water Code is repealed.

SEC. 45. Section 24962 of the Water Code is repealed.

SEC. 46. Section 24964 of the Water Code is repealed.

SEC. 47. Section 25036 of the Water Code is repealed.

SEC. 48. Section 25037 of the Water Code is repealed.

SEC. 49. Section 25038 of the Water Code is amended to read:

25038. The board shall call an election for the purpose of authorizing the issuance of the refunding bonds.

SEC. 50. Section 25041 of the Water Code is amended to read:

25041. The maturities of refunding bonds shall be fixed by the board.

SEC. 51. Section 25060 of the Water Code is amended to read:

25060. If any issue of refunding bonds are made to mature at one time, the board prior to or at the time of their issuance shall provide for the creation of and payments into a sinking fund for the payment of the bonds in amounts determined by the board.

SEC. 52. Section 25061 of the Water Code is amended to read:

25061. The amount of sinking fund payments may be modified from time to time by the board.

SEC. 53. Section 25090 of the Water Code is repealed.

SEC. 54. Section 25091 of the Water Code is amended to read:

25091. The board shall call an election for the purpose of authorizing the modification of a refunding plan.

SEC. 55. Section 25111 of the Water Code is amended to read:

25111. The terms of any refunding plan and of the refunding bonds outstanding thereunder may be modified from time to time if the modification is approved in the manner provided in this article by all of the following:

(a) The district.

(b) The holders of all of the outstanding refunding bonds affected.

SEC. 56. Section 25114 of the Water Code is repealed.

SEC. 57. Section 25241 of the Water Code is repealed.

SEC. 58. Section 25245 of the Water Code is amended to read:

25245. If any board provides that the principal, interest, or both of any bonds or any portion of the principal, interest, or both shall be payable solely from designated revenue, neither the district nor any officer thereof shall be held for payment otherwise.

SEC. 59. Section 25280 of the Water Code is amended to read:

25280. Any sources of revenue of any district may, by order of its board, be irrevocably allocated to a reserve fund established to pay the interest or principal of any bonds.

SEC. 60. Section 25300 of the Water Code is amended to read:

25300. A district may, by resolution of its board adopted at or prior to the time of issuing any bonds then proposed to be issued, provide for the call and redemption prior to their fixed maturity of any of the bonds.

SEC. 61. Section 25333 of the Water Code is repealed.

SEC. 62. Section 25403 of the Water Code is repealed.

SEC. 63. Section 35854 of the Water Code is repealed.

SEC. 64. Section 35885 of the Water Code is repealed.

SEC. 65. Section 35886 of the Water Code is amended to read:

35886. The board may execute the contract on behalf of the district if two-thirds of the votes cast at the election favor the contract.

SEC. 66. Section 35996 of the Water Code is amended to read:

35996. (a) The bonds, or any part thereof, may be issued and sold as the board determines.

(b) Before selling the bonds, or any part thereof, the board may give notice inviting sealed bids in such manner as the board may prescribe. If satisfactory bids are received, the bonds offered for sale shall be awarded to the highest responsible bidder. If no bids are received, or if the board determines that the bids received are not satisfactory as to price or responsibility of the bidders, the board may reject all bids received, if any, and either readvertise or sell the bonds at private sale.

(c) In the alternative, the board may, if it determines that to do so would produce a lower interest cost on the bonds, sell bonds at a private sale without first advertising for bids.

SEC. 67. Any provision in Division 13 (commencing with Section 34000), Division 14 (commencing with Section 39000), or Division 15 (commencing with Section 50000) of the Water Code that requires action by, or imposes a duty on, the Treasurer shall no longer be operative and shall have no force or effect.

SEC. 68. In the case of the City of Marina in the County of Monterey, the Controller shall determine that the population of the city is the population certified by the Demographic Research Unit of the Department of Finance plus the population within the Frederick Park and Schoonover Park subdivisions of Fort Ord, as determined

by the Demographic Research Unit, as if those subdivisions were within the City of Marina. The Controller shall use the population for the City of Marina as determined pursuant to this section when disbursing money pursuant to Sections 8352.6, 30462, and 11005 of the Revenue and Taxation Code and Sections 2105, 2106, 2107, and 2107.5 of the Streets and Highways Code. The Controller shall use the population for the City of Marina as determined pursuant to this section until the subdivisions are annexed to the City of Marina or until a nonfederal entity acquires the subdivisions from the federal government, whichever comes first.

SEC. 69. With respect to Sections 7, 10,, 11, and 27 of this act, the Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances of the County of Contra Costa, the Bear Valley Community Services District in Kern County, the West Valley Sanitary District in San Mateo County, and the City of Marina in Monterey County.

SEC. 70. This act shall be known and may be cited as the Local Government Omnibus Act of 1991. The Legislature finds and declares that Californians desire their governments to be run efficiently and economically and that public officials should avoid waste and duplication whenever possible. Therefore, in enacting this act, it is the intent of the Legislature to combine several minor statutory changes relating to local agencies into a single measure.

SEC. 71. (a) Section 9.1 of this bill incorporates amendments to Section 61600 of the Government Code proposed by both this bill and AB 266. It shall only become operative if (1) both bills are enacted and become effective January 1, 1992, (2) each bill amends Section 61600 of the Government Code, and (3) SB 224 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 266, in which case Sections 9, 9.3, and 9.5 of this bill shall not become operative.

(b) Section 9.3 of this bill incorporates amendments to Section 61600 of the Government Code proposed by both this bill and SB 224. It shall only become operative if (1) both bills are enacted and become effective January 1, 1992, (2) each bill amends Section 61600 of the Government Code, (3) AB 266 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 224 in which case Sections 9, 9.1, and 9.5 of this bill shall not become operative.

(c) Section 9.5 of this bill incorporates amendments to Section 61600 of the Government Code proposed by this bill, AB 266, and SB 224. It shall only become operative if (1) all three bills are enacted and become effective January 1, 1992, (2) all three bills amend Section 61600 of the Government Code, and (3) this bill is enacted after AB 266 and SB 224, in which case Sections 9, 9.1, and 9.3 of this bill shall not become operative.

SEC. 72. Sections 1.5 and 2 of this act shall not become operative

if Assembly Bill 1505 is enacted during the 1991 portion of the 1991–92 Regular Session.

CHAPTER 1227

An act to amend Section 13127 of, to amend and renumber Section 13130 of, and to add Sections 13130.3, 13131.1, 13131.2, 13131.3, and 13131.4 to, the Food and Agricultural Code, relating to pesticides.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 13127 of the Food and Agricultural Code, as amended by Chapter 277 of the Statutes of 1991, is amended to read:

13127. (a) Not later than December 31, 1985, the department shall identify 200 pesticide active ingredients which the department determines have the most significant data gaps and widespread use and which are suspected to be hazardous to people. Not later than 30 days after the report issued pursuant to Section 13125, the department shall notify each registrant of a pesticide product containing any of the identified 200 pesticide active ingredients of the applicable data gap required to be filled pursuant to this section.

(b) Not later than December 31, 1985, the department shall also adopt a timetable for the filling of all data gaps on all pesticide active ingredients, other than those identified by the department pursuant to subdivision (a), which are currently registered or licensed in California. The department shall notify registrants of the applicable data gaps and the scheduled time to initiate and complete studies as provided in the timetable.

(c) (1) Not later than September 1, 1986, the department shall determine whether a test has been initiated to fill each of the data gaps for each pesticide active ingredient identified in subdivision (a). If no test has been initiated, the department shall fill data gaps in accordance with procedures provided in subparagraph (B) of paragraph (2) of subsection (c) of Section 136a of Title 7 of the United States Code. In order to carry out this section, the director has the same authority to require information from registrants of active pesticide ingredients and to suspend registration that the Administrator of the Environmental Protection Agency has pursuant to subparagraph (B) of paragraph (2) of subsection (c) of Section 136a of Title 7 of the United States Code. If a hearing is requested regarding the proposed suspension of registration, it shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. On or before July 1, 1986, the director shall, by regulation, prescribe procedures for resolving disputes or funding the filling of data gaps.

The procedures may include mediation and arbitration. The arbitration procedures, insofar as practical, shall be consistent with the federal act, or otherwise shall be in accordance with the commercial arbitration rules established by the American Arbitration Association. The procedures shall be established so as to resolve any dispute within the timetable established in subdivision (a).

(2) The department shall also obtain the data which is identified in subdivision (b), according to the timetable and procedures specified in this section.

(d) The director shall review the timetable established by the Environmental Protection Agency for the accelerated registration program under amendments effective in 1989 to the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et seq.).

(e) (1) This section does not apply to any product which the director determines has limited use or that substantial economic hardship would result to users due to unavailability of the product and there is not significant exposure to the public or workers and the product is otherwise in compliance with federal law.

(2) The director may not, pursuant to this subdivision, exempt all pesticide products containing the same pesticide active ingredient unless it is determined that the pesticide active ingredient has only limited use, there is insignificant exposure to workers or the public, and the products are otherwise in compliance with federal law. Any exemption issued pursuant to this paragraph shall expire at the end of three years after it is issued.

(f) (1) Whenever the director exercises the authority provided in paragraph (1) of subdivision (e), he or she shall give public notice of the action stating the reasons for exempting the pesticide product from the data requirements of this article. Copies of this notice shall be provided to the appropriate policy committees of the Legislature.

(2) Whenever the director acts pursuant to paragraph (2) of subdivision (e), the director shall furnish not less than 30 days' public notice of the proposed action, stating the reasons for exempting the pesticide product from the data requirements of this article and allowing public comment thereon. Copies of the notice and the final decision shall be provided to the appropriate policy committees of the Legislature.

SEC. 2. Section 13130 of the Food and Agricultural Code is amended and renumbered to read:

13132. If any provision of this article or the application thereof to any person or circumstances is held invalid, this invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

SEC. 3. Section 13130.3 is added to the Food and Agricultural Code, to read:

13130.3. (a) Notwithstanding Section 13127, the time permitted

by the director for submitting data to fill a data gap shall be as follows:

(1) For oncogenicity studies and chronic feeding studies, 48 months.

(2) For reproduction studies, 48 months.

(3) For teratogenicity and neurotoxicity studies, 24 months.

(4) For mutagenicity studies, 12 months.

The time permitted by the director for submitting data to fill a data gap shall commence upon the date the department notifies the registrant of the data gap.

(b) Notwithstanding the time limit established in subdivision (a) for submitting data to fill a data gap, the department may, with the concurrence of the Office of Environmental Health Hazard Assessment, grant an extension of time to complete the required studies, upon a written finding that events beyond the control of the persons responsible for submitting the data prevent submission of the data within the prescribed time, and that those persons have made a good faith effort to complete the studies within the prescribed time. Not more than one extension of time per data requirement may be granted to complete the required studies. The length of an extension granted pursuant to this subdivision shall be limited to the time necessary to complete the studies, not to exceed the length of time specified in subdivision (a) for conducting the studies.

SEC. 4. Section 13131.1 is added to the Food and Agricultural Code, to read:

13131.1. (a) Not later than March 1, 1992, the director shall notify registrants of the data requirements, and the guidelines the director intends to use in reviewing studies submitted pursuant to subdivision (b) of Section 13127, for all pesticide active ingredients other than those identified pursuant to subdivision (a) of Section 13127.

(b) Not later than 90 calendar days after the date of notification of the data requirements, each registrant shall do one of the following:

(1) Inform the department, in a manner prescribed by the director, of how the registrant will comply with the data requirements.

(2) File a written objection, accompanied by any supporting evidence and arguments, to all or part of the director's notice of data requirements. The objection authorized by this paragraph shall be the exclusive opportunity for a registrant to object to the director's notice of data requirements.

(c) The director may consider and grant a request by a registrant to initiate the studies necessary to comply with the data requirements in accordance with a schedule established by the United States Environmental Protection Agency. In no event shall a registrant be authorized pursuant to this subdivision to initiate the studies necessary for that compliance after January 1, 1994.

SEC. 5. Section 13131.2 is added to the Food and Agricultural Code, to read:

13131.2. (a) Prior to March 1, 1992, or in response to a written objection filed pursuant to paragraph (2) of subdivision (b) of Section 13131.1, the department may determine, with the concurrence of the Office of Environmental Health Hazard Assessment, that one or more of the mandatory health effects studies are not required in order to evaluate pesticide active ingredients other than those identified pursuant to subdivision (a) of Section 13127. This determination may be made only in accordance with one or more of the following criteria:

(1) The ingredient has been classified as "Generally Recognized as Safe" by the United States Food and Drug Administration.

(2) The study is not physically possible due to the nature of the ingredient.

(3) The department has on file toxicological data that is adequate for the assessment of the potential adverse health effects of the ingredient, and the studies relied upon for that purpose are of the same study type, are scientifically valid, and, when taken together, are of a power and sensitivity equivalent to the studies that would be waived pursuant to this subdivision.

(b) The director may, in conjunction with the Office of Environmental Health Hazard Assessment, develop regulations for modification of mandatory health effects studies.

SEC. 6. Section 13131.3 is added to the Food and Agricultural Code, to read:

13131.3. If the Office of Environmental Health Hazard Assessment does not concur with the determination of the department pursuant to Section 13131.2, the issue shall be decided by a majority of the membership of a panel consisting of the following persons:

(a) An appointee of the State Director of Health Services who has expertise in toxicology.

(b) An appointee of the President of the University of California who has expertise in toxicology.

(c) An appointee of the Secretary for Environmental Protection who has expertise in toxicology.

SEC. 7. Section 13131.4 is added to the Food and Agricultural Code, to read:

13131.4. (a) On or before January 1, 1994, the director shall issue a final notice of data gaps required to be filled for all pesticide active ingredients other than those identified pursuant to subdivision (a) of Section 13127. This notice shall be the department's final determination of the data gaps required to be filled.

(b) The time allowed under Section 13130.3 to fill the data gaps shall commence on the date that the final notice of data gaps is issued pursuant to subdivision (a).

(c) Not later than 90 calendar days after the date the final notice of data gaps is issued pursuant to subdivision (a), each registrant shall inform the department, in a manner prescribed by the director, of how the registrant will fill the data gap, including a proposed

schedule for initiation, completion, and submittal of all required studies.

(d) If, at the end of the 90-day period described in subdivision (c), the director determines that a registrant who is a basic manufacturer has declined to provide the required studies, the director shall notify any formulators that are likely to be affected, and shall advise them of the data gaps. Not later than 90 calendar days after the date of that notification, each of those formulators shall respond to the director in the manner prescribed in subdivision (c).

SEC. 8. This act shall only become operative if Senate Bill 550 of the 1991–92 Regular Session is also chaptered and becomes operative.

CHAPTER 1228

An act to amend Section 13123 of, to add Sections 13127.2, 13127.3, 13127.31, 13127.32, 13127.5, 13127.6, 13127.7, 13127.8, 13127.9, 13127.91, 13127.92, and 13127.93 to, and to repeal and add Sections 13130.3 and 13131.4 of, the Food and Agricultural Code, relating to agriculture.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 13123 of the Food and Agricultural Code is amended to read:

13123. For purposes of this chapter, the following terms mean:

(a) "Adverse reproductive effect" means a statistically significant adverse effect on parental reproductive performance and the growth and development of offspring, including gonadal function, conception, and parturition; abortions; birth defects; stillbirths; and resorptions.

(b) "Data gap" means that the department does not have on file a full set of valid mandatory health effects studies.

(c) "Mandatory health effects study" means adverse reproductive effect, chronic toxicity, mutagenicity, neurotoxicity, oncogenicity, and teratogenicity studies required for full registration or licensing of pesticides in California, as of July 1, 1983.

(d) "Teratogenic" means the property of a substance or mixture of substances to produce or induce functional deviations or developmental anomalies, not heritable, in or on an animal embryo or fetus.

(e) "Mutagenic effect" means the property of a substance or mixture of substances to induce changes in the genetic complement of either somatic or germinal tissue in subsequent generations.

(f) "Chronic toxicity" means the property of a substance or mixture of substances to cause adverse effects in an organism upon repeated or continuous exposure over a period of at least one-half the

lifetime of that organism.

(g) "Oncogenic" means the property of a substance or a mixture of substances to produce or induce benign or malignant tumor formations in living animals.

(h) "Neurotoxic effect" means any adverse effect on the nervous system such as delayed-onset locomotor ataxia resulting from single administration of the test substance, repeated once if necessary.

(i) "Initiation" means that the mandatory health effects study or any necessary preliminary studies, such as pilot studies or range finding studies, have been commenced.

(j) "Data generator" means a person who has completed and filed with the director a data commitment status report.

(k) "Completion" means that the study has been finished, the data has been analyzed, and the final report of the results, including all exhibits, has been prepared and submitted to the department.

(*l*) "Submitted" means deliverance of a completed study to the department. A study shall be deemed to be submitted until such time as it has been determined to be unacceptable by the department.

(m) "Suspend" means the director has issued a notice of intent to suspend the registration of a pesticide product. The director shall issue a suspension order at the earliest possible time.

SEC. 2. Section 13127.2 is added to the Food and Agricultural Code, to read:

13127.2. The director shall, on January 15, 1992, issue a notice of intent to suspend the registration of any pesticide product containing an active ingredient identified pursuant to subdivision (a) of Section 13127 for which the registrant has not submitted the required data by December 31, 1991. The data generator or registrant may petition the director within 30 days of notification of impending suspension of registration for deferral of the suspension pursuant to Section 13127.5. The director shall act upon such a petition at the earliest possible time and, upon denial of the petition, suspend the registration of each such product.

SEC. 3. Section 13127.3 is added to the Food and Agricultural Code, to read:

13127.3. (a) The director shall grant an extension of time for submission of the required data if the director, with the concurrence of the Secretary for Environmental Protection, makes a finding that both of the following conditions are satisfied:

(1) The registrant has submitted at least eight of the mandatory health effects studies, and has initiated the studies required to fill the remaining data gaps by January 15, 1992, unless the registrant can demonstrate to the satisfaction of the director that it failed to have eight studies submitted, and the remaining studies initiated, in accordance with this paragraph because not more than two studies were delayed due to specific, written direction of the department based upon a written evaluation by a department toxicologist.

(2) That the registrant has taken appropriate steps to meet the requirements of this article. To determine whether appropriate steps

have been taken, the director shall consider the registrant's timely response to data call-ins on other active ingredients contained in products registered with the department pursuant to this article and pursuant to Article 15 (commencing with Section 13141), and whether the registrant has responded in a timely and appropriate manner to notices and correspondence from the department relating to data call-ins and has taken appropriate measures to address study deficiencies identified by the department.

(b) A registrant shall not be considered to have taken the appropriate steps, as provided in subdivision (a), if the registrant has failed to meet the deadlines established by this article due to efforts to coordinate compliance with federal data requirements.

SEC. 3.5. Section 13127.31 is added to the Food and Agricultural Code, read:

13127.31. Notwithstanding subdivision (a) of Section 13127.3, if the director finds that delays in submitting the mandatory health effects studies were primarily caused by actions of the department, the director, with the concurrence of the Secretary for Environmental Protection, may extend the deadlines for submitting the mandatory health effects studies for the following active ingredients creosote, pentachlorophenol, dicamba, para-dichlorobenzene, methyl bromide, napropamide, petroleum distillates, and arsenic pentoxide/trioxide. Registrants of these products shall submit the required studies in a timely manner, but in no case later than the time allowed in Section 13127.92.

SEC. 4. Section 13127.32 is added to the Food and Agricultural Code, to read:

13127.32. Notwithstanding any other provision of this section, or any other provision of law, no pesticide product containing an active ingredient identified pursuant to subdivision (a) of Section 13127 for which the required studies have not been submitted by March 30, 1996, shall remain registered in this state after that date.

SEC. 5. Section 13127.5 is added to the Food and Agricultural Code, to read:

13127.5. (a) The director, with the concurrence of the Secretary for Environmental Protection, may defer the suspension of registration of a pesticide product, as provided in Section 13127.2, if both of the following occur:

(1) The director receives a petition from the registrant or any other person requesting a deferral of suspension.

(2) The director makes a written finding of one of the following:

(A) Suspension of the registration of the product would cause substantial economic hardship to the users of the product, that there would be no significant, unmitigated human exposure to the product, and that no feasible alternatives to the product are available.

(B) Suspension of the registration of the product would be more detrimental to the agricultural or nonagricultural environment than continued use of the product, that there would be no significant, unmitigated human exposure to the product, and that no feasible

alternatives to the product are available.

(C) Suspension of the registration of the product would result in significant risk to the public health and that no feasible alternatives to the product are available.

(b) The director shall limit the use of any product granted a deferral of suspension pursuant to paragraph (2) of subdivision (a) to specific uses that conform to the director's findings pursuant to paragraph (2) of subdivision (a).

SEC. 6. Section 13127.6 is added to the Food and Agricultural Code, to read:

13127.6. The director shall levy a charge on data generators of up to one thousand dollars ($1,000) per day for each day a data gap continues to exist after January 15, 1992. In establishing the amount of the charge, the director shall consider the number of outstanding studies, the registrant's timely response to data call-ins on other products registered with the department pursuant to this article and pursuant to Article 15 (commencing with Section 13141), and whether the registrant has responded in a timely and appropriate manner to notices and correspondence from the department relating to data call-ins, and whether the registrant has taken appropriate measures to address study deficiencies identified by the department. If the charge levied on the data generator is not paid, all products containing that active ingredient shall be suspended. Revenues collected from the levying of charges shall be deposited in the Department of Pesticide Regulation Fund.

SEC. 7. Section 13127.7 is added to the Food and Agricultural Code, to read:

13127.7. All documentation relevant to a finding made pursuant to Sections 13127.3 and 13127.5 shall be available to the public, and the findings shall be a public record.

SEC. 8. Section 13127.8 is added to the Food and Agricultural Code, to read:

13127.8. (a) A suspension of registration of a pesticide product containing any of the active ingredients identified pursuant to subdivision (a) of Section 13127 shall be revoked when the director determines that the registrant has submitted all of the mandatory health effects studies. If, upon completion of the review of the studies, the director determines that a data gap still exists, the director shall suspend the registration.

(b) If at any time after January 1, 1992, the registrant meets the requirements of subdivision (a) of Section 13127.3, notwithstanding the date specified in paragraph (1) of subdivision (a) of Section 13127.3, the director shall revoke the suspension, and shall levy a charge pursuant to Section 13127.6 or, if a charge has already been levied on a registrant, the director may revise the charge in light of the registrant's compliance with the requirements of this article and Article 15 (commencing with Section 13141).

(c) The director may modify the amount of the charge levied pursuant to Section 13127.6 upon the initiation or submission of any

health effects studies required pursuant to this article.

SEC. 9. Section 13127.9 is added to the Food and Agricultural Code, to read:

13127.9. For each mandatory health effects study that is required for each active ingredient identified pursuant to subdivision (a) of Section 13127, the registrant shall submit to the department a progress report in December of each year until the study is completed.

SEC. 10. Section 13127.91 is added to the Food and Agricultural Code, to read:

13127.91. The director shall suspend the registration of any pesticide product that contains an active ingredient identified pursuant to subdivision (a) of Section 13127 for which the registrant fails to do any of the following:

(a) Respond to the director's notification of a data gap.

(b) Submit progress reports as required by Section 13127.9.

(c) Demonstrate reasonable progress toward completion of all the mandatory health effects studies.

SEC. 11. Section 13127.92 is added to the Food and Agricultural Code, to read:

13127.92. (a) Extensions of time granted pursuant to Section 13127.3, 13127.31, and 13127.5 shall only be for the time necessary to complete the mandatory health effects studies.

(b) Mandatory health effects studies shall be completed in accordance with the following timetable:

(1) Forty-eight months for oncogenicity, chronic feeding, and reproduction studies.

(2) Twenty-four months for teratogenicity and neurotoxicity studies.

(3) Twelve months for mutagenicity studies.

(c) A deferral of suspension of registration issued pursuant to Section 13127.5 shall be subject to an annual review by the director and shall be limited to the time necessary to compete the required studies, and shall in no case exceed four years with the time tolling from the date that the registrant petitioned for an extension.

(d) Any extension of time for submission of the mandatory health effects studies granted pursuant to Section 13127.5 shall be canceled by June 15, 1993, and the registration suspended for the affected ingredient, if the registrant fails to initiate the required studies by June 15, 1992.

SEC. 12. Section 13127.93 is added to the Food and Agricultural Code, to read:

13127.93. The director shall report annually to the appropriate committees of the Legislature on the specific data gaps remaining for pesticide products containing any active ingredient identified pursuant to subdivision (a) of Section 13127.

SEC. 13. Section 13130.3 of the Food and Agricultural Code, as added by Assembly Bill No. 1742 of the 1991–92 Regular Session, is repealed.

SEC. 14. Section 13130.3 is added to the Food and Agricultural Code, to read:

13130.3. (a) Notwithstanding subdivision (b) of Section 13127, the time permitted by the director for submitting data to fill a data gap shall be as follows:

(1) For oncogenicity studies and chronic feeding studies, 48 months.

(2) For reproduction studies, 48 months.

(3) For teratogenicity and neurotoxicity studies, 24 months.

(4) For mutagenicity studies, 12 months.

The time permitted by the director for submitting data to fill a data gap shall commence upon the date the department notifies the registrant of the data gap.

(b) Notwithstanding the time limit established in subdivision (a) for submitting data to fill a data gap, the department may, with the concurrence of the Office of Environmental Health Hazard Assessment, grant an extension of time to complete the required studies, upon a written finding that events beyond the control of the persons responsible for submitting the data prevent submission of the data within the prescribed time, and that those persons have made a good faith effort to complete the studies within the prescribed time. Not more than one extension of time per data requirement may be granted to complete the required studies. The length of an extension granted pursuant to this subdivision shall be limited to the time necessary to complete the studies, not to exceed the length of time specified in subdivision (a) for conducting the studies.

SEC. 15. Section 13131.4 of the Food and Agricultural Code, as added by Assembly Bill No. 1742 of the 1991–92 Regular Session, is repealed.

SEC. 16. Section 13131.4 is added to the Food and Agricultural Code, to read:

13131.4. (a) On or before January 1, 1994, the director shall issue a final notice of data gaps required to be filled for all pesticide active ingredients other than those identified pursuant to subdivision (a) of Section 13127. This notice shall be the department's final determination of the data gaps required to be filled.

(b) The time allowed under Section 13130.3 to fill the data gaps shall commence on the date that the final notice of data gaps is issued pursuant to subdivision (a), unless an extension is granted pursuant to subdivision (b) of Section 13130.3.

(c) Not later than 90 calendar days after the date the final notice of data gaps is issued pursuant to subdivision (a), each registrant shall inform the department, in a manner prescribed by the director, how the registrant will fill the data gap, including a proposed schedule for initiation, completion, and submittal of all required studies.

SEC. 17. This bill shall become operative only if AB 1742 of the 1991–92 Regular Session is chaptered and becomes operative.

SEC. 18. Notwithstanding any other provision of law, nothing in

this act or in Assembly Bill No. 1742, if enacted during the 1991–92 Regular Session, shall be construed as the enactment of legislation which makes reference to a "California Environmental Protection Agency" for the purposes of Provision 2 of Item 3400-002-044 of the Budget Act of 1991.

CHAPTER 1229

An act to add and repeal Section 56132 of the Government Code, relating to governmental organization, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature. Filed with Secretary of State October 15, 1991.]

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

SECTION 1. Section 56132 is added to the Government Code, to read:

56132. (a) This section shall only apply to any change of organization or reorganization that includes detachment of territory from the Broadmoor Police Protection District in the County of San Mateo and which includes or accommodates, or is intended to facilitate, an annexation of territory to another local agency that has initiated the change of organization or reorganization. This section does not, however, apply to any territory comprising real property owned by the San Francisco Bay Area Rapid Transit District.

If the commission adopts a resolution approving such a change of organization or reorganization, the board of commissioners of the district may, within 15 days thereafter, adopt a resolution finding either that the proposed detachment may or will not adversely affect the district's ability to efficiently provide its law enforcement services in the remainder of the district. The district shall, if it adopts a resolution, file a certified copy of its resolution with the local agency to which the affected territory is proposed to be annexed, the conducting authority, and the commission. If that resolution finds that the proposed detachment may have an adverse financial effect, then the reorganization shall not become effective unless a majority of the voters voting at a special election of the district called for that purpose approve the detachment. The Broadmoor Police Protection District shall pay the costs of the election. For purposes of this section, it shall be conclusively presumed that any affected local agency which adopts a resolution under Section 56800 requesting a detachment of contiguous territory from the Broadmoor Police Protection District and which could have concurrently requested annexation of the affected territory, intends to do so.

(b) The Legislature finds and declares that a special law is

necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the following special circumstances:

The Broadmoor Police Protection District consists primarily of suburban residential properties which have long enjoyed an urban level of police services. The threat of continued piecemeal detachments of territory from the district threatens its ability to continue providing that level of service on an economically efficient basis.

(c) This section shall remain in effect only until January 1, 1996, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1996, deletes or extends that date.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make this act applicable to detachment and annexation decisions made during 1991, it is necessary that this act go into immediate effect.

CHAPTER 1230

An act to add and repeal Section 1281.7 to the Unemployment Insurance Code, relating to unemployment insurance, making an appropriation therefor, and declaring the urgency thereof, to the effect immediately.

[Became law without Governor's signature. Filed with Secretary of State October 15, 1991.]

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

SECTION 1. Section 1281.7 is added to the Unemployment Insurance Code, to read:

1281.7. (a) Any unemployed individual who, as determined by the director, has been laid off from work or is unable to commence work as a direct result of the fire that occurred on March 31, 1991, at the Michigan California Lumber Company and who is otherwise eligible to receive benefits under this part, is eligible for an additional maximum of 26 times his or her weekly benefit amount.

(b) To the extent permitted by federal law, benefits payable under this section shall be available only when an individual has exhausted or is otherwise ineligible for other state or federal unemployment compensation. In the event an individual becomes eligible for federal-state extended unemployment compensation benefits prior to January 1, 1992, that individual shall become ineligible for benefits under this section to the extent he or she is

eligible for and receives federal-state extended unemployment benefits.

(c) Benefits shall be payable under this section only pursuant to claims made on or before January 1, 1992.

(d) This section shall remain in effect only until January 1, 1993, and as of that date is repealed.

SEC. 2. The Legislature finds and declares that, for purposes of Section 1 of this act, a special law is necessary and that a general law can not be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances of the employees of the Michigan California Lumber Company.

SEC. 3. This act shall become operative only if Assembly Bill 1095 of the 1991–92 Regular Session is enacted.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Because workers of low- and moderate-income are in need of financial support as soon as possible as a result of an unforeseen disaster, it is necessary for this act to take effect immediately.

CHAPTER 1231

An act to add Section 308.2 to the Penal Code, relating to cigarettes.

[Became law without Governor's signature. Filed with Secretary of State October 15, 1991.]

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

SECTION 1. Section 308.2 is added to the Penal Code, to read:

308.2. (a) Every person who sells one or more cigarettes, other than in a sealed and properly labeled package, is guilty of an infraction.

(b) "A sealed and properly labeled package," as used in this section, means the original packaging or sanitary wrapping of the manufacturer or importer which conforms to federal labeling requirements, including the federal warning label.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless

otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CONCURRENT AND JOINT RESOLUTIONS

1991–92

REGULAR SESSION

1991 RESOLUTION CHAPTERS

RESOLUTION CHAPTER 1

Assembly Concurrent Resolution No. 5—Relative to the selection of the Legislative Counsel of California.

[Filed with Secretary of State December 6, 1990.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That, pursuant to Section 10201 of the Government Code, Bion M. Gregory is selected as the Legislative Counsel of California.

RESOLUTION CHAPTER 2

Assembly Concurrent Resolution No. 14—Relative to California Family Month.

[Filed with Secretary of State February 5, 1991.]

WHEREAS, The family is the moral core of our society and the ability of the family to fulfill its roles and obligations is critical to the well-being of California's citizenry and economy; and

WHEREAS, Circumstances today threaten the well-being of our families; and

WHEREAS, Today, large numbers of California's families are experiencing economic and social stresses that jeopardize their stability and well-being; and

WHEREAS, Today's families often need two incomes to meet their needs, causing them to experience a conflict between work and family, which is exacerbated by inflexible work schedules, lack of leave time to attend to family matters, and social institutions that have failed to respond to changes in the work and living patterns of families; and

WHEREAS, Today's families often rely upon auxiliary forms of caregiving, including child care, elder care, and afterschool supervision for youth, but these services are often difficult to find and more expensive than many families can afford; and

WHEREAS, Today, a growing number of families lack even the most basic resources necessary for their health and security; and

WHEREAS, Approximately 5.2 million Californians are without health insurance of any kind and three out of four are employed adults and their children; and

WHEREAS, The state's supply of affordable housing is diminishing to the point where fewer people are able to afford increased rents and the dream of owning a home will never be fulfilled for many families; and

WHEREAS, The future of tomorrow's families and the economy of the state are threatened by the lack of educational achievement and

work-readiness of today's students; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That it is the intent of the Legislature to protect the well-being of today's families and ensure that the families of tomorrow are prepared to be productive and self-sufficient and to this end, the Legislature is committed to enacting policies to make California a state in which all families can thrive; and be it further

Resolved, That in honor of this commitment, the California Legislature designates February of 1991 as California Family Month.

RESOLUTION CHAPTER 3

Senate Joint Resolution No. 5—Relative to American troops in the Middle East.

[Filed with Secretary of State February 5, 1991]

WHEREAS, Californians, with all Americans, share the goal of a peaceful world, free of war; and

WHEREAS, Peace includes a total withdrawal of all occupying forces from all occupied nations; and

WHEREAS, California is home to thousands of Soldiers, Sailors, Air Force, and Marines currently in the Middle East; and

WHEREAS, The men and women of the American Armed Services are engaged in combat with the Armed Services of Iraq, and are at risk of great personal injury and death; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California proclaims its full support for all American servicemen and servicewomen serving both in the United States and the Middle East; and be it further

Resolved, That the Legislature of the State of California proclaims its respect for the dedication, perseverance, courage, capabilities and professionalism being exhibited by United States troops in the Middle East; and be it further

Resolved, That the Legislature of the State of California proclaims its outrage at the war crimes being committed against American and allied service personnel by the Government of Iraq that are in clear violation of the Geneva Conventions relative to the treatment of prisoners of war; and be it further

Resolved, That the Legislature of the State of California respectfully memorializes the President of the United States of America, in his commitment in sending our troops into battle, and creating a new generation of veterans of foreign wars, be equally committed to providing for their health care needs, caring for their family support needs, and all the other attendant needs that they will experience as a result of war; and be it further

Resolved, That the Secretary of the Senate transmit copies of this

resolution to the President and Vice President of the United States, and each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 4

Senate Joint Resolution No. 6—Relative to Iraqi missile attacks on Israel.

[Filed with Secretary of State February 5, 1991.]

WHEREAS, Iraq has targeted noncombatants in civilian centers in Israel without regard for loss of life by noncombatants; and

WHEREAS, Israel is not a party to the United Nations efforts to free Kuwait from the invading armies of Iraq; and

WHEREAS, It is a moral and historical outrage that some 50 years after the Holocaust the sons and daughters and grandchildren of Holocaust survivors are forced to wear gas masks in the very land that was created to keep them safe; and

WHEREAS, The attack by Iraqi missiles on Israel is a cynical attempt by Iraq to expand these United Nations efforts into a war with Israel in order to divide the global alliance responding to the United Nations' resolution to free Kuwait from the Iraqi occupation; and

WHEREAS, Every nation which is subjected to unprovoked attack has a right to respond to that attack; and

WHEREAS, Israel is committed to peace in the Middle East, now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California condemns and expresses its outrage at the missile attacks on Israel and its civilian population by Iraq, and calls upon Iraq to immediately halt indiscriminate and unprovoked military assaults on the people of Israel; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 5

Senate Concurrent Resolution No. 15—Relative to Parent Teacher Association Month.

[Filed with Secretary of State February 5, 1991.]

WHEREAS, The California State Parent Teacher Association (PTA) is the oldest and largest child advocacy organization in the state; and

WHEREAS, Since its founding in 1897, the PTA has worked to improve the education and well-being of all children and youth; and

WHEREAS, The California State PTA assists parents in developing the skills they need to nurture their children; and

WHEREAS, The California State PTA has a long history of helping parents and teachers to make a difference in the lives of all children; and

WHEREAS, Studies have proven that parent involvement leads to better education of children and youth; and

WHEREAS, The California State PTA actively supports and promotes parent and public involvement in the schools and in the community; and

WHEREAS, The California State PTA is dedicated to promoting public policies that improve the well-being of all children and youth; and

WHEREAS, PTA Founders Day has been celebrated on February 17 since its founding in 1897; now, therefore, be it

Resolved, That February 1991 be designated Parent Teacher Association Month in California; and be it further

Resolved, That all citizens be encouraged to learn how they can be involved in improving education and the quality of life for all children.

RESOLUTION CHAPTER 6

Assembly Joint Resolution No. 11—Relative to the Iraq-Kuwait war.

[Filed with Secretary of State February 15, 1991.]

WHEREAS, Saddam Hussein, the military dictator of Iraq, is a murderous tyrant bent on the violent conquest and domination of his Arab neighbors, who further seeks to determine the future of Israel and the Middle East as a whole; and

WHEREAS, The brutal character of this man, Saddam Hussein, first became evident when, as a 14-year old boy, he killed his first person; years later, after his rise to power, he ordered his troops to exterminate Kurdish villagers of his own nation, mercilessly slaughtering thousands of innocent civilians with poison gas; and

WHEREAS, In July of 1990, Saddam Hussein, after amassing thousands of his troops on the border of his neighbor, Kuwait, assured the world that he had no designs on his neighbor; yet, only days after making those assurances, did, in fact, on August 2, 1990, ruthlessly

invade this tiny, defenseless country, sending his tanks and army into the streets of Kuwait City, in order to annex his neighbor and seize vast reserves of petroleum and the property of the people of Kuwait, thereby shattering their precious right to live, work, and raise their children in peace and security; and

WHEREAS, Saddam Hussein, through the troops under his command in Kuwait, is responsible for unspeakable acts of savagery, and has torn babies from their incubators and shot children in front of the eyes of their helpless parents; and

WHEREAS, With 530,000 troops lodged in southern Iraq and Kuwait, Saddam Hussein posed and continues to pose an ominous threat to the Saudi Kingdom and world peace; and

WHEREAS, On August 7, 1990, in response to this naked aggression and in order to prevent the further invasion which was imminent, the President of the United States ordered American troops into Saudi Arabia to establish a "Desert Shield" of defense; and

WHEREAS, It became clear to virtually all of the civilized world, including Iraq's Arab neighbors, that Saddam Hussein, being in possession of chemical, biological, and other weapons of mass destruction, was also seeking nuclear capability; that, in addition to outright subjugation of any vulnerable neighbor, his clear design was to gain decisive leverage over world oil markets, thus threatening the stability of world peace and all free peoples; and

WHEREAS, For the first time in history, this recognition brought about the coming together and mutual resolve of the United States, the Soviet Union, and the United Nations, which, through its Security Council, demanded the unconditional withdrawal of Iraq and the restoration of the legitimate government of Kuwait; and

WHEREAS, The United Nations did further authorize the use of military force against Iraq if it refused to comply by January 15, 1991, and, in the interim, the world body did further establish a financial and trade embargo and blockade of Iraq, in an attempt to bring about the peaceful end of Iraq's occupation and aggression; and

WHEREAS, President George Bush initiated reasonable means to seek the peaceful adherence of Iraq to the United Nations' resolutions, only to be rebuffed by a determined and intransigent Saddam Hussein; and

WHEREAS, The Congress of the United States, after three days of open, somber debate, did, on January 12, 1991, grant to the President the authority to take any action he saw necessary, including the commitment of U.S. forces into combat, to bring about the compliance by Iraq to the United Nations' resolutions, after the January 15 deadline has passed; and

WHEREAS, On January 14, the diplomatic tether reached its end when U.N. Secretary-General Javier Perez de Cuellar could not persuade President Saddam Hussein to begin a pullout of Kuwait by January 15; and

WHEREAS, On January 16, after five and one-half months of economic sanctions and diplomatic efforts, Saddam Hussein had

refused to withdraw and the liberation of Kuwait had begun; with the authorization of Congress, the President ordered U.S. forces, in conjunction with our Arab and European allies, to unleash a massive bombing attack in an effort to force Iraqi armed forces from occupied Kuwait; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That we take to heart these words that were indelibly spoken two decades ago by President John F. Kennedy, that, "we will bear any burden, pay any price, meet any hardship, support any friend, oppose any foe, to assure the survival and the success of liberty"; and be it further

Resolved, That this Legislature supports the resolute actions taken by President George Bush in pursuit of a policy crucial to the peace of the world; and be it further

Resolved, That this Legislature condemns the brutal and unprovoked attacks on the State of Israel by Saddam Hussein, causing enormous suffering and death to innocent Israeli men, women, and children; and be it further

Resolved, With great pride, we—the people of California—do rightfully and dutifully honor those patriotic young men and women of our armed forces who are carrying out their mission with professional excellence and exemplary bravery, so that others might be free and that world peace will be assured; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 7

Assembly Joint Resolution No. 8—Relative to Lithuania.

[Filed with Secretary of State February 20, 1991.]

WHEREAS, On January 13, 1991, the army of the Union of Soviet Socialist Republics launched a severe and unprovoked assault on the independent state of Lithuania; and

WHEREAS, This attack has reportedly killed many Lithuanian citizens and injured over 100 persons; and

WHEREAS, The use of military troops to forcibly impose the will of the Soviet central government on citizens otherwise lawfully engaged in peaceful activities is totally contrary to the basic principles and goals of perestroika, glasnost, and democracy; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the California Legislature respectfully memorializes the

President and Congress of the United States to likewise condemn the brutal predawn assault on the citizens of Lithuania that occurred on January 13, 1991, and to carefully review all forms of United States assistance presently being given to the Union of Soviet Socialist Republics; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 8

Assembly Joint Resolution No. 13—Relative to economic damage to crops caused by freezing temperatures.

[Filed with Secretary of State February 22, 1991.]

WHEREAS, The recent freeze during December 1990, and January 1991, was the third worst natural disaster that ever occurred in the State of California with respect to the economy of this state, ranking behind the 1906 San Francisco and Loma Prieta earthquakes; and

WHEREAS, This record freeze was unique since it consisted of low temperatures for an extended period of time. In many locations of the state the temperatures dropped below 20 degrees Fahrenheit and remained at those temperatures for seven consecutive days; and

WHEREAS, This caused extensive damage to the agricultural industry in the state with the loss of crops alone estimated to be in a range between $750 and $900 million and could reach as high as $1.3 billion; and

WHEREAS, The freezing temperatures affected many crops in the state. The most severely damaged crops were: navel and valencia oranges, lemons, grapefruit, avocados, strawberries, melons, sugar beets, broccoli, cauliflower, artichokes, winter vegetables, flowers, and nursery stocks; and

WHEREAS, The freeze caused extensive damage to citrus budwood, which impacts the ability of nurseries to produce trees for replanting for orchards of the affected areas, especially young orchards where extensive replanting will be required; and

WHEREAS, New trees will take five to seven years of growth before they reach full production, and lemon trees that sustained heavy damage will take three to five years to recover from the freeze; and

WHEREAS, In addition to the loss of crops on the trees and in fields, producers of agricultural products incurred significant energy expenses and capital losses from damage to irrigation systems and

equipment breakdowns; and

WHEREAS, The damage to the agricultural industry had the effect of causing the unemployment of approximately 15,000 skilled, full-time workers and economic depression in many rural counties of the state whose residents depend heavily on agriculture as their primary source of income; and

WHEREAS, The families in those areas, with already marginal incomes, will have to make decisions to either purchase food or pay for housing and utilities; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorialize the President and Congress of the United States to enact legislation to appropriate the necessary funds to the Agricultural Stabilization and Conservation Service to provide relief to the producers of agricultural products affected by the recent freeze in this state; and be it further

Resolved, That funds be allocated to the Secretary of Agriculture to make grants available for providing emergency services to low-income migrant and seasonal farmworkers; and be it further

Resolved, That funds be allocated to the Secretary of Agriculture to provide emergency crop assistance to eligible producers of agricultural products in the State of California pursuant to the Food, Agriculture, Conservation and Trade Act of 1990 (P.L. 101-624); and be it further

Resolved, That Section 2272 of the Food, Agriculture, Conservation and Trade Act of 1990 should not apply with regard to those appropriated funds; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Secretary of Agriculture, to each Senator and Representative from California in the Congress of the United States, and to the Agricultural Stabilization and Conservation Service.

RESOLUTION CHAPTER 9

Assembly Joint Resolution No. 15—Relative to the war against Iraq.

[Filed with Secretary of State February 26, 1991.]

WHEREAS, Over 470,000 American men and women have been uprooted from their families and peacetime careers to sacrifice their time and risk their lives for their country; and

WHEREAS, People of different philosophies and views on the United States government's military policies undertaken in the Persian Gulf nevertheless, unite in respect for the sacrifices suffered by America's men and women serving in Operation Desert Storm;

and

WHEREAS, Those sacrifices also are borne stateside by military dependents whose reservist parents were called to active duty, and who were forced to leave behind their children, often with inadequate child care; and

WHEREAS, The veterans returning from Operation Desert Storm deserve the appreciation of their government in the form of improved opportunities in housing, education, and health care; and

WHEREAS, The veterans of this war deserve not only praise today, but the benefits of important services now, and when they return home from battle; now, therefore, be it

Resolved, by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California proclaims its commitment to honor the individual men and women who will return as veterans of Operation Desert Storm; and be it further

Resolved, That the Legislature hereby states its commitment to pursue, and urges the Congress of the United States to consider enacting, a series of benefits to aid those California residents serving in support of Operation Desert Storm, including, but not limited to:

(1) Provision of child care for military reservists and national guard members while called to active duty away from home.

(2) Eligibility for the CAL-VET home loan program.

(3) Conformity with recently passed federal law by exempting military pay from state income taxation.

(4) Creation of a system to assure adequate health care and counseling for returning veterans.

(5) Waiver of tuition and fees at state colleges and universities for those returning veterans who desire educational advancement; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 10

Assembly Concurrent Resolution No. 16—Relative to Black History Month.

[Filed with Secretary of State February 25, 1991.]

WHEREAS, African American people have participated in the founding and building of our nation and have played a critical role in shaping the economic, cultural, and social fabric of our society; and

WHEREAS, African American people have been leaders in every movement for progressive social change, including their own fight

for emancipation, the struggle to organize labor unions, and the civil rights movement; and

WHEREAS, African American people have consistently demonstrated their patriotism and loyalty to this country and have fought in every American war, often in segregated units, from the Revolutionary War to the Vietnam War, where nearly 275,000 African Americans served in the military; and

WHEREAS, Black History Month is not only a call to acknowledge the outstanding African Americans whose names we know, but also a call to pay homage to the many African Americans who have anonymously shaped our collective past and our future; and

WHEREAS, The celebration of Black History Month will provide an opportunity for schools and communities to focus attention on the heritage of African American contributions to the United States and the State of California, and for students, in particular, to benefit from an awareness of these contributions; and

WHEREAS, Carter Goodwin Woodson, an African American historian, recognized these accomplishments and, on February 7, 1916, organized one of the cultural landmarks of contemporary America, "Negro History Week"; and

WHEREAS, In the 1960's, during the height of the Civil Rights movement, the observance of "Negro History Week" was expanded to "Black History Month"; and

WHEREAS, Innumerable African Americans have contributed to the history of California, including the first African American elected to the Legislature, former Assemblyman Frederick Roberts, who served his constituents from 1918 to 1934; and

WHEREAS, California was among the first states to commemorate the birthday of one of America's great leaders, Martin Luther King, Jr.; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California takes pleasure in honoring the contributions of African American people, and proclaims the month of February 1991 as Black History Month; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 11

Assembly Concurrent Resolution No. 15—Relative to Women's History Month.

[Filed with Secretary of State March 4, 1991.]

WHEREAS, American women of every class and ethnic background have participated in the founding and building of our

nation and have played a critical role in shaping the economic, cultural, and social fabric of our society, not in the least of ways through their participation in the labor force, working both inside and outside of the home; and

WHEREAS, Women have been leaders in every movement for progressive social change, including their own suffrage movement, the fight for emancipation, the struggle to organize labor unions, and the civil rights movement; and

WHEREAS, Despite these contributions, the role of American women in history has been consistently overlooked and undervalued; and

WHEREAS, The celebration of Women's History Month will provide an opportunity for schools and communities to focus attention on the heritage of women's contributions to the United States and the State of California, and for students, in particular, to benefit from an awareness of these contributions; and

WHEREAS, Women's History Month will include International Women's Day, March 8, originally proclaimed in 1910 to recognize and commemorate the valuable contributions women have made to the labor movement in improving working conditions and thus bettering peoples' lives; and

WHEREAS, The observance of Women's History Week was begun by the Sonoma County Commission on the Status of Women in 1978, and has since been commemorated throughout the nation by schools, historians, and community groups; and

WHEREAS, Women's History Month will be not only a call to acknowledge the outstanding American women whose names we know, but also a call to pay homage to the many women who have anonymously shaped our collective past; and

WHEREAS, The strides made by our foremothers have enabled contemporary women and men to make tomorrow's history by advocating an end to physical and sexual assault, discrimination in the work force, and the feminization of poverty, and by advocating the full participation of women in the political arena, the provision of adequate child care, and equal access to all of the opportunities this nation has to offer; and

WHEREAS, Women's History Month will recognize the success of women and highlight their accomplishments considering the changing roles and conditions of women in California, and will counter barriers to full and equal participation in California life for women; and

WHEREAS, Because of the significance and scope of women's roles in making history and shaping American culture and society, it is important that the State of California recognize the many contributions of women; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California takes pleasure in joining with the Sonoma County Commission on the Status of Women and the California Commission on the Status of

Women in honoring the contributions of women, and designates the month of March 1991 as Women's History Month; and be it further

Resolved, That the Legislature urges all Californians to join in the celebration of International Women's Day on March 8, 1991, and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Chair of the Sonoma County Commission on the Status of Women and to the Chair of the California Commission on the Status of Women for distribution to appropriate organizations.

RESOLUTION CHAPTER 12

Senate Concurrent Resolution No. 14—Relative to courthouse financing and construction.

[Filed with Secretary of State March 19, 1991.]

WHEREAS, The judicial branch of state government provides a great number of necessary and vital services to the people of California; and

WHEREAS, There is a significant and growing need to construct and finance new court facilities to serve the judicial needs of the people of California; and

WHEREAS, It is recognized that existing court facilities may not be adequate to allow efficient and timely processing of pending and anticipated caseloads; and

WHEREAS, Before courthouses are built, careful research and planning are essential to ensure that space allocations and designs reflect current and future court requirements; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Joint Committee on Courthouse Financing and Construction is hereby established; and be it further

Resolved, That, pursuant to Joint Rule 36.5, the Joint Committee on Courthouse Financing and Construction shall consist of three Members of the Senate, appointed by the Senate Committee on Rules, and three Members of the Assembly, appointed by the Speaker of the Assembly; and be it further

Resolved, That the Joint Committee on Courthouse Financing and Construction and its members shall have and exercise all of the rights, duties, and powers conferred upon investigating committees and their members by the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to the joint committee and its members; and be it further

Resolved, That the Senate Committee on Rules may make money available from the Contingent Fund of the Senate as it deems necessary for the expenses of the Joint Committee on Courthouse

Financing and Construction and its members. Any expenditure of money by the joint committee shall be made in compliance with policies set forth by the Senate Committee on Rules and shall be subject to the approval of the Senate Committee on Rules; and be it further

Resolved, That the Joint Committee on Courthouse Financing and Construction shall, within 15 days of its authorization, and annually thereafter, present its annual budget to the Joint Committee on Rules for its review and comment; and be it further

Resolved, That, on or before June 30, 1991, the Joint Committee on Courthouse Financing and Construction shall report to the Legislature as to the status of courthouse construction within the state and the methods available to finance courthouse construction within the state; and be it further

Resolved, That the Joint Committee on Courthouse Financing and Construction is authorized to act until June 30, 1991, and as of that date shall cease to exist.

RESOLUTION CHAPTER 13

Assembly Joint Resolution No. 18—Relative to equal treatment of Arab Americans.

[Filed with Secretary of State March 20, 1991.]

WHEREAS, The United States, in conjunction with Arab and European allies, unleashed a massive bombing attack on Iraqi armed forces in Iraq and occupied Kuwait on January 16, 1991; and

WHEREAS, Thousands of Americans of Arab descent live in the United States as American citizens; and

WHEREAS, Many Iraqi Americans now residing in the United States fled the brutality and persecution instigated by the Hussein regime; and

WHEREAS, Many Americans of Arab descent are now fighting in the United States armed forces against Iraq; and

WHEREAS, Hate crimes and other forms of harassment against Arab Americans have increased 25-fold since the beginning of the Iraq-Kuwait crisis; and

WHEREAS, Incidents of antisemitic vandalism and harassment of Jewish Americans have also dramatically increased since the beginning of the Iraq-Kuwait Crisis; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That it supports equal treatment of all Americans, regardless of race, ethnicity, or religion; and be it further

Resolved, That this Legislature condemns any form of physical or emotional harassment of Arab Americans, Jewish Americans, and other groups; and be it further

Resolved, That the Legislature of the State of California respectfully memorializes the President of the United States and the Congress of the United States to publicly denounce the disturbing and unjustified acts of harassment and violence committed against Arab Americans, Jewish Americans, and other groups; and be it further

Resolved, That the Legislature calls upon the people of the State of California to set a lofty example for the rest of the nation and the world to follow by honoring and respecting the free exercise of each individual's rights and privileges, regardless of race, ethnicity, or religion; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 14

Assembly Concurrent Resolution No. 9—Relative to Earthquake Preparedness Month.

[Filed with Secretary of State March 22, 1991.]

WHEREAS, In the past decade, northern, central, and southern California have all been impacted by the devastating effects of a major earthquake; and

WHEREAS, Most seismologists predict that there will be a major earthquake somewhere in California in the coming decades; and

WHEREAS, A primary means for minimizing the risks of injury and loss of life and damage to property is to make the public aware of all possible earthquake safety measures and precautions; and

WHEREAS, A cooperative effort between the Legislature and the state and local governments will be most effective in developing that public awareness; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby proclaims the month of April 1991, as California Earthquake Preparedness Month and urges all Californians to engage in appropriate earthquake safety-related activities during that month; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor, the Seismic Safety Commission, the Office of Emergency Services, each county board of supervisors, and city council in the state.

RESOLUTION CHAPTER 15

Assembly Concurrent Resolution No. 11—Relative to California Holocaust Memorial Week.

[Filed with Secretary of State March 22, 1991.]

WHEREAS, More than 50 years have passed since the tragic events which we now call the Holocaust transpired in which the dictatorship of Nazi Germany murdered six million Jews as part of a systematic program of genocide; and

WHEREAS, The Holcaust was a tragedy of proportions the world had never before witnessed; and

WHEREAS, We must be reminded of the reality of the Holocaust's horrors so they will never be repeated; and

WHEREAS, 1991 holds special significance with the reunification efforts between East and West Germany as well as renewed cooperation between Eastern and Western Europe as a whole; and

WHEREAS, Each person in the State of California should set aside moments of their time every year to give remembrance to those who lost their lives in the Holocaust; and

WHEREAS, The United States Holocaust Memorial Council has designated the week of April 7 through April 14, 1991, as Holocaust Memorial Week-Days of Remembrance for Victims of the Holocaust; and

WHEREAS, April 11, 1991, is Yom HaSho'ah, and it has been designated internationally as a day of remembrance for victims of the Holocaust; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the week of April 7 through April 14, 1991, be proclaimed as California Holocaust Memorial Week, and that Californians are urged to observe these Days of Remembrance for Victims of the Holocaust in an appropriate manner; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 16

Assembly Concurrent Resolution No. 22—Relative to Adult Education Week.

[Filed with Secretary of State March 22, 1991.]

WHEREAS, The mission of California public adult education is to provide lifelong educational opportunities and services to address the needs of a society impacted by rapid technological, economic, and social change; and

WHEREAS, Adult education as delivered by school districts and

community colleges has been a permanent and valued service to millions of Californians seeking a second chance for a high school education, occupational training, and other education services; and

WHEREAS, Some 1.8 million adults and 224,000 youth are served each year by adult education programs throughout the state; and

WHEREAS, Public adult education has a 200-year history of being the primary educational provider for immigrant and minority adults seeking to become productive members of a new society; and

WHEREAS, California public adult education contributes significantly to the reduction of vandalism and other crimes by providing day and evening, academic and vocational training programs for a segment of the public that does not, or could not, aspire to higher education; and

WHEREAS, Every year, more than 500,000 immigrants from numerous countries seek out adult education classes to learn the English language and gain an understanding of the political, economic, and social systems that direct our democratic form of government; and

WHEREAS, California adult education is the segment of public education assigned the historic mission of serving the needs of disadvantaged adults in becoming economically self-sufficient; and

WHEREAS, Thousands of persons trapped by circumstances in the welfare cycle have found self-sufficiency through basic education classes, job-entry skill training, and job placement through attendance in adult education courses; and

WHEREAS, Over the last nine years alone, more than 2,000,000 adult education students in California obtained job skills by attending public adult education vocational training programs; and

WHEREAS, More than 756,000 adults with physical and mental disabilities obtained job skills training in basic education classes for disadvantaged adults offered by California public adult education between 1980 and 1990; and

WHEREAS, California public adult education accounts for only 3 percent of the total K–14 public school budget, as it has for 60 years, and only .07 percent of the total public education budget (including postsecondary institutions); and

WHEREAS, California public adult education has a proven history of being innovative, flexible, and responsive in serving the communities fortunate enough to have established an adult education program before 1979, when prohibitive legislation precluded funding for additional programs; and

WHEREAS, More than 50 percent of primary wage earners in California find it necessary to change careers four or more times during their lifetimes and need retraining to remain employable; and

WHEREAS, The California State Legislature supports public adult education by finding and declaring "that adult continuing education is essential to the needs of society in an era of rapid technological, economic, and social change and that all adults in California are

entitled to quality publicly supported continuing education opportunity..." (Section 8500 of the California Education Code); now therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby proclaims the week of March 11–15, 1991, as Adult Education Week, to provide an opportunity for the citizens of California to become aware of the need to continue the valuable services provided by public adult education in the State of California; and be it further

Resolved, That the Chief Clerk of the Assembly transmit this resolution to the Governor of the State of California.

RESOLUTION CHAPTER 17

Assembly Concurrent Resolution No. 39—Relative to California Agriculture Day.

[Filed with Secretary of State March 22, 1991.]

WHEREAS, California agriculture is a $17.8 billion a year industry, making the "Golden State" the number one agricultural state in the nation; and

WHEREAS, California's men and women who farm and ranch, and the farm workers who do the harvesting, provide the public with the most bountiful, nutritious, and safest food in the world; and

WHEREAS, The public is often unaware of agriculture's vital role in their daily lives; and

WHEREAS, California foods contribute significantly to our high standard of living by providing food at affordable prices; and

WHEREAS, Only 10 percent of our disposable income is spent on food, and that is the lowest amount of any country in the entire world; and

WHEREAS, California agriculture is suffering billion dollar losses due to back-to-back natural disasters, namely the record December 1990 freeze and a five-year drought; and

WHEREAS, The public should more fully understand the important contribution that California agriculture makes to the prosperity of the state, especially in these times of natural disaster; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California declares Thursday, March 21, 1991, as "California Agriculture Day"; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor and the Director of Food and Agriculture.

RESOLUTION CHAPTER 18

Senate Concurrent Resolution No. 13—Relative to the Joint Committee on Energy Regulation and the Environment.

[Filed with Secretary of State March 22, 1991.]

WHEREAS, The Legislature finds and declares that the state's energy development and conservation sectors are critical to the health and welfare of California's economy and environment; and

WHEREAS, Since its inception in 1975, the State Energy Resources Conservation and Development Commission (Energy Commission) has been given extensive responsibilities by the Legislature with regard to powerplant siting, energy supply and demand forecasting, energy conservation, and alternative energy technology development; and

WHEREAS, The Energy Commission shares responsibility for energy-related functions with over 20 other state governmental agencies, departments, offices, boards, and commissions, including, but not limited to, the Public Utilities Commission, the Environmental Affairs Agency, the Department of General Services, the Energy Extension Service, the Department of Conservation, the State Lands Commission, the California Integrated Waste Management Board, the California Alternative Energy Source Financing Authority, the Department of Water Resources, the State Water Resources Control Board, and the State Air Resources Board, which has resulted in significant fragmentation, duplication, overlap, and confusion in the formulation and execution of state energy-related functions; and

WHEREAS, Emerging energy-related issues facing the state in the 21st century, not fully contemplated at the time the Energy Commission was established, need to be examined more fully, particularly in the areas of air quality, transportation, and other environmental management issues; and

WHEREAS, In its most recent biennial report to the Governor and the Legislature on California's Energy Outlook, the Energy Commission recommended that California's current energy-related functions be examined and evaluated with a view towards possible reform; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, as follows:

(1) The Joint Committee on Energy Regulation and the Environment, which was created by Resolution Chapter 20 of the Statutes of 1989, may act during the 1991–92 Regular Session of the Legislature, including any recess, until June 30, 1991.

(2) The Senate Committee on Rules may make money available from the Senate Contingent Fund for expenses of the committee and its members and staff. Any expenditure of money shall be made in compliance with policies set forth by the Senate Committee on Rules

and shall be subject to the approval of the rules committee. The joint committee shall, within 15 calendar days following the adoption of this measure, present its budget to the Joint Rules Committee for its review and comment.

RESOLUTION CHAPTER 19

Senate Concurrent Resolution No. 23—Relative to Workers' Memorial Day.

[Filed with Secretary of State April 10, 1991.]

WHEREAS, April 28, 1989, was proclaimed the first Workers' Memorial Day; and

WHEREAS, American workers continue to suffer as the toll of work-related injuries, illnesses, and deaths rises; and

WHEREAS, Americans honor and pay tribute to victims of workplace hazards on the 28th of April in ceremonies sponsored by unions and other organizations; and

WHEREAS, Occupational safety and health programs have endured reductions in funding for enforcement and technical staff both federally and in California in recent years, resulting in significant increases in work-related injuries and deaths here and nationwide; and

WHEREAS, Coordinated services and activities to commemorate the loss of Americans to unsafe workplaces have already strengthened employment safeguards and protected the cause of the dedicated American worker; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That April 28, 1991, be proclaimed Workers' Memorial Day in California; and be it further

Resolved, That Californians be encouraged to observe the day in an appropriate manner.

RESOLUTION CHAPTER 20

Senate Concurrent Resolution No. 6—Relative to the Joint Committee on the State's Economy.

[Filed with Secretary of State April 12, 1991.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, as follows:

(1) Notwithstanding any prior concurrent resolution affecting these committees, the Joint Committee on the State's Economy and the advisory committees authorized to be established pursuant to

Resolution Chapter 4 of the Statutes of 1980 are continued in existence through June 30, 1991.

(2) The Joint Committee on the State's Economy shall continue to have the powers and duties granted and imposed by the resolutions creating and continuing it.

(3) The Senate Committee on Rules or the Assembly Committee on Rules may make such money available from the operating funds under their direction and control as they deem necessary for expenses of the committee and its members. Any expenditure of money shall be made in compliance with policies set forth by the rules committee making the money available and shall be subject to the approval of that rules committee. The committee shall, within 15 calendar days following the adoption of this measure and annually thereafter, present its annual budget to the Joint Rules Committee for its review and comment.

RESOLUTION CHAPTER 21

Senate Concurrent Resolution No. 25—Relative to Child Passenger Safety Week.

[Filed with Secretary of State April 12, 1991.]

WHEREAS, The number one preventable cause of death and injury of children and young adults is automobile collisions; and

WHEREAS, Approximately 200 children under the age of 16 years are killed and over 20,000 are injured in automobile collisions each year in California; and

WHEREAS, Approximately 71 percent of these children would be alive today if they had been properly restrained in crash-tested car safety seats or safety belts; and

WHEREAS, Infants and young children are not capable of independently operating child passenger safety seats or manual seatbelts, and are not adequately protected by automatic seatbelts or air bags; and

WHEREAS, Crash-tested safety seats are moderately priced and widely available for purchase at retail stores for a low cost, or for rent at low or no cost from car safety seat loaner programs throughout California; and

WHEREAS, Existing law requires that a child, who is under the age of four years or under 40 pounds, be restrained in a child safety seat when riding in a passenger vehicle or motortruck under 6,001 pounds, and requires that all other occupants use available safety belts; and

WHEREAS, One of the goals of the California Legislature is to help ensure the right of every child to be protected from injury or death while being transported in a motor vehicle; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the week of April 28, 1991, to May 4, 1991, be declared Child Passenger Safety Week.

RESOLUTION CHAPTER 22

Assembly Joint Resolution No. 17—Relative to postsecondary education.

[Filed with Secretary of State April 22, 1991.]

WHEREAS, California has a longstanding policy commitment to ensure that every person wishing to benefit from higher education would have access to an education through the California Community Colleges, regardless of how he or she fares in high school; and

WHEREAS, California's commitment to an accessible community college system was institutionalized in the comprehensive 1960 Master Plan for Higher Education, and has been repeatedly reaffirmed and reinvigorated in periodic reviews of the Master Plan; and

WHEREAS, California law prohibits a community college from denying any student access to the institution based on the results of a standardized test; and

WHEREAS, California law further establishes a student matriculation process which serves as an effective means for assessing a student's ability to benefit from higher education and providing that student with necessary guidance counseling; and

WHEREAS, Public Law 101-508 and implementing regulations of the United States Department of Education require all students at colleges and universities to possess a high school diploma, or its equivalent, or pass an independently administered standardized exam approved by the department; and

WHEREAS, Any college which does not comply with these regulations will lose all eligibility for federal funding under Title IV of the Higher Education Act; and

WHEREAS, As a result of these regulations, nearly 136,000 first-time community college students would have to be tested annually in California, and a disproportionate number of these students come from an ethnic and economic status for whom the community colleges represent true economic opportunity; and

WHEREAS, Communities of color are rapidly becoming the majority in the state and a large percentage of these are Latino, African-American, and other minorities; and

WHEREAS, The high school completion rate for Latinos and African-Americans is a mere 54 percent and almost 60 percent of all Latinos in postsecondary education are enrolled at community

colleges; and

WHEREAS, California's 107 community colleges could lose more than $271 million in federal aid, including $151 million in direct aid to financially eligible students, if they are unable to comply with the new federal policy; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California memorializes the President and the Congress of the United States, to immediately set aside the Department of Education regulations conditioning institutional eligibility for federal postsecondary education aid upon the possession of a high school diploma or passage of a standardized test by all students at an educational institution; and be it further

Resolved, That the California Legislature further memorializes the Congress to expeditiously pass, and the President to sign, legislation allowing California to maintain its commitment to ensuring access to higher education through the community colleges free of any federally imposed admissions test; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Secretary of Education, the Speaker of the House of Representatives, and each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 23

Assembly Joint Resolution No. 27—Relative to North American free trade agreement negotiations.

[Filed with Secretary of State April 22, 1991.]

WHEREAS, Total trade between the United States and Mexico is estimated to be over $60 billion in 1990. Mexico is the third largest market for U.S. exports, after Canada and Japan. The United States buys approximately 70 percent of Mexico's exports making this country Mexico's most important customer; and

WHEREAS, The creation of a North American "common market" would serve to further liberalize the trading system for the promotion of greater opportunities for employment and economic growth in the United States; and

WHEREAS, Beginning in the spring of 1991, negotiations are set to begin between President George Bush and President Carlos Salinas de Gortari of Mexico for a comprehensive bilateral free trade agreement and the agreement may partially or wholly include Canada; and

WHEREAS, The implementation of, and adherence to, adequate health, occupational safety and environmental quality standards is an essential part of any true and fair trade liberalization agreement; and

WHEREAS, A recent Public Broadcasting System documentary by Bill Moyers portrayed extensive environmental damage caused by intensive industrial development in Pacific Rim nations. This report identified United States and Taiwan business firms who imported batteries into Taiwan for the sole purpose of recycling the lead. This investigative report noted the unhealthy levels of lead in the blood samples of the workers and the workplace; and

WHEREAS, Mexico's Maquiladora industry has been a net generator of foreign exchange and of overall economic development for Mexico and has afforded several benefits for United States firms in terms of reduced costs and, thus, a boost to competitiveness in the global market; and

WHEREAS, There have been several concerns recently with regard to the social costs associated with the economic benefits achieved by the two countries involved in the zone of Maquiladora activity; and

WHEREAS, The treatment of hazardous waste byproducts associated with manufacturing operations at Maquiladora factories is one major concern. Existing statutes governing the area require that those byproducts be transported back into the United States for appropriate disposal. United States Environmental Protection Agency documents suggest that much of the waste is remaining in Mexico, some of which appears later in rivers flowing across the border into the United States; and

WHEREAS, An additional social cost of Maquiladora activity is its dependency on a low-wage labor force and the conditions under which they work. Recent investigations noted that employees were working at an average hourly wage of twenty-five cents ($0.25) per hour and that little or no attention was given to minimum occupational noise and worker health and safety standards; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature respectfully memorializes the President and the Congress of the United States to support the liberalization of trade and the creation of a North American Common Market only at the time that appropriate measures are taken to ensure the health and safety of workers in the free trade area and to ensure that adequate environmental quality standards are observed; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 24

Assembly Concurrent Resolution No. 19—Relative to proclaiming Southeast Asia Genocide Remembrance Week.

[Filed with Secretary of State April 23, 1991.]

WHEREAS, The genocide which is occurring in the Southeast Asian countries of Cambodia, Vietnam, and Laos following their fall to Communist forces in April 1975 is a human tragedy of immense proportions; and

WHEREAS, After the fall of Cambodia, millions of Cambodians were forcibly taken from their homes and put in concentration camps set up by the Khmer Rouge; and

WHEREAS, The Khmer Rouge executed all former government officials, military personnel, civil servants, professionals, and other educated persons; and

WHEREAS, Millions of Cambodians died of starvation in these concentration camps; and

WHEREAS, After the fall of South Vietnam to the Communists in 1975, the Communists began to methodically execute former government officials, civil servants, and military personnel; and

WHEREAS, Tens of thousands of Vietnamese patriots have been executed since 1975; and

WHEREAS, The Communist government of Laos is reportedly conducting chemical warfare against indigenous Hmong tribesmen; and

WHEREAS, The Surgeon General of the United States Department of the Army conducted an exhaustive study which confirmed the chemical warfare being conducted by the Communist government of Laos; and

WHEREAS, Amnesty International has determined that between 1.2 million and 2.5 million Cambodian, Vietnamese, and Laotian people have perished in this genocide since 1975; and

WHEREAS, The Southeast Asia Genocide is continuing today in these countries, as evidenced by the thousands of refugees fleeing from these countries each month; and

WHEREAS, The world must be made aware of the terrible reality and tragedy of the Southeast Asia Genocide so that it will be stopped; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the week of April 28 through May 4, 1991, is hereby proclaimed Southeast Asia Genocide Remembrance Week; and be it further

Resolved, That the Legislature urges all Californians to learn more about the Southeast Asia Genocide and to participate in the activities of Southeast Asia Genocide Remembrance Week; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 25

Assembly Joint Resolution No. 20—Relative to the Persian Gulf War.

[Filed with Secretary of State April 23, 1991.]

WHEREAS, Californians, with all other Americans, share the goal of a peaceful world, free of war; and

WHEREAS, California is home to thousands of soldiers, sailors, Air Force personnel, and Marines currently in the Middle East; and

WHEREAS, Californians support all the troops in the Persian Gulf, and especially the volunteer troops; and

WHEREAS, The volunteer fighting force in the Persian Gulf is disproportionately composed of African-Americans and Latinos; and

WHEREAS, Of the women deployed to the Persian Gulf, the majority are African-American women and Latinas; and

WHEREAS, African-Americans, Latinos, and other people of color in the United States should be provided equal access to housing, health care, education, and economic opportunities; and

WHEREAS, A strong Civil Rights Act is necessary and in the best interests of all Californians; and

WHEREAS, African-Americans and Latinos continue to join the armed forces at a greater rate than nonminorities—they join out of a desire to serve their country, and as a way out of poverty; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President of the United States of America, in his commitment to the war in the Persian Gulf, which will result in the creation of a new generation of minority veterans of foreign wars in disproportionate amounts to their numbers in the general population, to be equally committed to providing all veterans with economic, educational, and vocational opportunities, to funding necessary social service programs, and to supporting the human rights struggles of all peoples, including peoples of the Third World and Eastern Europe; and be it further

Resolved, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to enact federal legislation that would provide support to the families of the troops, and that would provide educational opportunities for all veterans of Operation Desert Storm so that they can achieve their educational goals; and be it further

Resolved, That the Legislature of the State of California urges the Congress of the United States to pass a strong civil rights bill, and respectfully memorializes the President of the United States of America to actively support and sign into law such a bill as a showing of commitment to all persons serving in the Persian Gulf; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 26

Assembly Joint Resolution No. 23—Relative to Operation Desert Storm.

[Filed with Secretary of State April 23, 1991.]

WHEREAS, On January 16, 1991, President George Bush, in keeping with the United Nations resolution and in conjunction with the Coalition Forces, launched Operation Desert Storm to liberate Kuwait from Iraqi occupation and aggression; and

WHEREAS, On February 27, 1991, only six weeks after commencement of military action and only 100 hours after commencement of the groundwar, the liberation of Kuwait was achieved, and Iraq was decisively defeated, leading to a ceasefire and the announcement by Iraq that it would agree to all terms set forth by the United Nations and the United States to bring about the permanent end of the war; and

WHEREAS, Never in history has a fighting force in the air, and on land and sea, achieved victory so decisively and so rapidly while sustaining so few casualties; and

WHEREAS, All of this came to pass under the resolute leadership of our President, the military acumen of General Colin Powell, the brilliant and bold leadership of General Norman Schwartzkopf and the superior logistical skill of Lieutenant General William Pagonis, and the highly professional staff officers who planned and oversaw the magnificent strategy; and

WHEREAS, The leadership, bravery, and skill with which our Armed Forces and our allies fought the war and devastated a strong and battle-tested foe, is unparalleled and unequaled in military history; now, therefore, be it

Resolved, by the Assembly and Senate of the State of California, jointly, That we recognize and honor President George Bush, the men and women of our Armed Forces, its leaders, and the allies of the United States for their liberation of Kuwait, and their swift, decisive defeat of Iraq under the aggressive and brutal regime of military dictator Saddam Hussein; and be it further

Resolved, That this Legislature not only joins families and loved ones in honoring, as well as mourning, for those brave Americans and allies who were wounded and who died as a result of this war, but also extols those same families for their many sacrifices during this

day of crisis; and be it further

Resolved, That we also recognize the people of America, many of whom work in this state, who designed, developed, and built the high technology weaponry which was decisive in the battle by locating and destroying the enemy, while limiting harm to our Armed Forces and those of our allies, and the people of Israel and Saudi Arabia; and be it further

Resolved, That we honor and respect the refusal of the peoples and leaders of Israel to react militarily against the enemy even though they endured death, destruction, and suffering from missiles launched against them; and be it further

Resolved, That a copy of this resolution be sent to President Bush, Generals Powell, Schwartzkopf, and Pagonis, the United States Congress, and that this resolution be made public so that every Californian who has served in the Gulf at any time, from the beginning of this conflict to its conclusion, and their families and loved ones, will know of our resolve and our pride in their gallant service and magnanimous sacrifices.

RESOLUTION CHAPTER 27

Senate Concurrent Resolution No. 28—Relative to California School Lunch Week.

[Filed with Secretary of State April 26, 1991.]

WHEREAS, The week of April 29 to May 3, 1991, has been set aside as California School Lunch Week, and its theme is "Kids and Food—California Grown"; and

WHEREAS, Under the National School Lunch Program and other child food and nutrition programs, more than two million nutritious meals are served daily to the children of California; and

WHEREAS, California is the nation's leading agricultural state, leading the nation in the production of 53 crop and livestock commodities; and

WHEREAS, California's agricultural products have been recognized worldwide for their quality, variety, and abundance; and

WHEREAS, The National School Lunch Program encourages the consumption of these nutritious agricultural commodities by providing affordable meals to our school children; and

WHEREAS, Good nutrition is vital to the health and welfare of our children, and studies have shown that well-nourished children are more attentive and receptive to learning; and

WHEREAS, The California School Food Service Association provides invaluable service to our state's school children, in ensuring healthy and well-balanced meals; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly

thereof concurring, That the Legislature hereby proclaims the week of April 29 to May 3, 1991, as California School Lunch Week, commends the school lunch program as a valuable tool in the educational process, and acknowledges the contributions the agricultural products from California have made to the success of this program.

RESOLUTION CHAPTER 28

Assembly Concurrent Resolution No. 24—Relative to Lake County.

[Filed with Secretary of State April 29, 1991.]

WHEREAS, The State Air Resources Board reviews and classifies the air basins in the state according to whether or not they are in attainment or nonattainment with ambient air quality standards, as required by the California Clean Air Act; and

WHEREAS, Lake County wholly comprises one of the 13 established air basins in California; and

WHEREAS, After three years of verified monitoring, the state board has designated the Lake County Air Quality Management District as having obtained attainment status for all pollutants; and

WHEREAS, Lake County is the only air basin in compliance with all pollution standards, including the two most difficult standards to attain, the respirable particulate standard and the visibility standard of 10 miles; and

WHEREAS, The county and district are especially proud of the combined effort that was made by industry, the public, and the Northern Sonoma County Air Pollution Control District to achieve attainment with respect to hydrogen sulfide in the Geysers geothermal area, while at the same time expanding industrial production; now, therefore, be it

Resolved, by the Assembly of the State of California, the Senate thereof concurring, That Lake County be commended for achieving the highest air quality rating in the state and for its dedicated and consistent efforts to accomplish this coveted designation.

RESOLUTION CHAPTER 29

Assembly Concurrent Resolution No. 40—Relative to California Small Business Week.

[Filed with Secretary of State May 3, 1991.]

WHEREAS, The President of the United States, by proclamation, will designate the week of May 6 through May 12, 1991, as Small Business Week in recognition of the outstanding contributions of the owners of small businesses of this nation; and the President will request the Governor to proclaim the week of May 6 through May 12, 1991, as California Small Business Week; and

WHEREAS, Ninety-five percent of new jobs in California are generated by small business firms; and

WHEREAS, Twenty-seven percent of the fastest growing small public companies and 13 percent of the fastest growing small private companies are in California; and

WHEREAS, More new jobs are created by small businesses than any other sector of our economy; and

WHEREAS, Small businesses are the state's largest employer, employing approximately 10 million people; and

WHEREAS, More than two million of our nations's 17 million small businesses are located in California and employ 55 percent of the state's workers; and

WHEREAS, California's small businesses have a vital role in expanding our state's trade relationships with Pacific Rim countries; and

WHEREAS, Small business people possess the dedication and entrepreneurial spirit to develop and market new technologies, thereby bringing more capital into the business market and further strengthening our economy; and

WHEREAS, The innovation, diversity, competitive strength, job generation, and quality of life which small businesses bring to our economy are vital elements of our state's long-term economic health; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Governor is hereby requested, in conjunction with the national designation thereof, to proclaim the week of May 6, 1991 through May 12, 1991, as California Small Business Week, in special recognition of the contributions which the owners of small businesses have made, and will continue to make, in our state; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Governor of this state.

RESOLUTION CHAPTER 30

Assembly Concurrent Resolution No. 48—Relative to Physical Education and Sports Week and Physical Fitness and Sports Month.

[Filed with Secretary of State May 3, 1991.]

WHEREAS, Physical education in the schools includes a broad range of physical activities and movement experiences; and

WHEREAS, Physical education helps improve the overall health of children by increasing cardiovascular endurance, muscular strength and endurance, flexibility, weight regulation, improved bone development, and improved posture; and

WHEREAS, Physical education helps improve self-image and realization, social development, responsible behavior and independence of children, and constructive use of leisure time; and

WHEREAS, The study of physical education contributes to children's reading readiness, mental alertness, academic performance, and enthusiasm for learning; and

WHEREAS, A quality daily physical education program for all children from kindergarten and grades 1 to 12, inclusive, is an essential part of a comprehensive education; and

WHEREAS, The Youth Fitness Summit, attended by Governor Pete Wilson, Superintendent of Public Instruction, Bill Honig, Members of the Legislature, representatives of the California Association for Health, Physical Education, Recreation and Dance, as well as 10 statewide school and community agencies, focused on the need for physical fitness instruction through physical education, and established a joint coalition to improve youth fitness; and

WHEREAS, The State Department of Education has listed as one of its goals to assist children to attain their optimal physical and intellectual development by providing comprehensive health and physical education programs and services as part of the total instructional program; and

WHEREAS, The American Alliance for Health, Physical Education, Recreation, and Dance and the National Association for Sport and Physical Education have designated May 1–7, 1991, as Physical Education and Sports Week with the theme of "Fit for the Year 2000"; and

WHEREAS, The President's Council on Physical Fitness and Sports has designated May 1991, Physical Fitness and Sports Month; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the California Legislature does hereby endorse the observance of Physical Education and Sports Week during the week of May 1–7, 1991, and Physical Fitness and Sports Month, during the month of May 1991, as opportunities to support the purposes and practices of physical education and encourages teachers, parents, students, and all citizens to participate; and be it further

Resolved, That the California Legislature rededicates itself to the maintenance of quality physical education programs in the State of California that are relevant to the needs of children placed in its care and that will positively influence all children; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Governor of the State of California.

RESOLUTION CHAPTER 31

Assembly Concurrent Resolution No. 2—Relative to California Community Service Day.

[Filed with Secretary of State May 7, 1991.]

WHEREAS, The State of California acknowledges the far-reaching contributions of millions of volunteers, working for the betterment of their communities and the lives of their neighbors; and

WHEREAS, The spirit of contribution, care, and support that is the foundation of volunteer efforts creates hope, vision, and empowerment beyond literal actions or tangible results; and

WHEREAS, The spirit of giving lies within each of us, and the concept of community is a fundamental principle of a vital society, so that it serves each of us to give in community, in relationship with our neighbors; and

WHEREAS, To create our vision, we must act and join others in cooperation to make the world and community that we desire become reality; and

WHEREAS, By establishing a precedent of a vigorous call to action for the world, we create the future of a global community that we desire; and

WHEREAS, Our schools, community centers, parks, churches, senior homes, nursing homes, day-care facilities, homeless shelters, social services of all types, and out neighbors who are in need, will all benefit from our concerted action; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California hereby declares May 4, 1991, as California Community Service Day; and be it further

Resolved, That the Governor is hereby requested to address the people of the state on California Community Service Day to acknowledge local community volunteer efforts, and to encourage all to participate in the spirit of those efforts; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor and the Sterling Community Service Foundation.

RESOLUTION CHAPTER 32

Assembly Concurrent Resolution No. 10—Relative to the Joint Committee on Mental Health Research.

[Filed with Secretary of State May 10, 1991.]

WHEREAS, In California, one million persons, without regard to gender or ethnic background, and their families, are directly affected by serious mental illness; and

WHEREAS, The private and public costs of mental health care, including alcohol and drug abuse services, approach $10 billion annually and are rising at the rate of $1.5 billion annually; and

WHEREAS, A substantial public expenditure on the state and local correctional system and the welfare system is associated with mental illness; and

WHEREAS, Persons with mental illness are at elevated risk for abuse of alcohol and drugs and this combination can make them dangerous to themselves and others; and

WHEREAS, New breakthroughs in technology and in the biomedical, biogenetic, and biochemical sciences have set the stage for productive explorations of the human brain and its interaction with genetic, behavioral, and environmental influences; and

WHEREAS, The State of California has, within its borders, more outstanding scientists and research facilities than any other state or nation in the world, with the capability to undertake coordinated investigations into anomalies of brain function that produce mental illness; and

WHEREAS, The State of California can position itself to take the lead in this new and promising research arena with significant economic benefits to the scientific and bioindustrial community from the influx of research capital; and

WHEREAS, Understanding the underlying biological causes of serious mental illness will pave the way for preventive strategies and treatments which will enable the state for the first time to control and reduce these disorders; and

WHEREAS, The Legislature, recognizing this opportunity for California to stem the tide of human suffering and arrest the cost of serious mental illness, took steps to organize this effort through formation of the Joint Committee on Mental Health Research in 1989; and

WHEREAS, The committee and its advisory panel have diligently met and assessed the current resources, activities, and interests of the scientific and bioindustrial communities in this area of research; and

WHEREAS, The committee, having found the interest to be strong and potential sources of financial support to be available, has developed a blueprint for public-private partnerships between the university research establishment and the biogenetic and pharmaceutical industries, which is contained in the Report of the Joint Committee on Mental Health Research presented by the committee to the Legislature; and

WHEREAS, With the formation of a distinguished and committed advisory panel and with the presentation of this report the committee has vigorously and with distinction discharged the initial responsibility given it by the Legislature; and

WHEREAS, An aggressive stance should continue to be taken by

the Legislature to implement this blueprint expeditiously; and

WHEREAS, The committee was terminated as of January 31, 1991; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Joint Legislative Committee on Mental Health Research is hereby reestablished, and shall have the following powers and duties:

(a) To reappoint the advisory panel, consisting of a representative of the State Department of Mental Health, outstanding business leaders, and consumers who are knowledgeable in the various areas being studied, as well as experts in the research or treatment of the mentally ill, to assist the committee and staff. The advisory panel shall be expanded to 25 members to include a representative of the State Department of Alcohol and Drug Programs and to include representation of the major ethnic groups which comprise California's future population. The advisory panel members shall serve at the discretion of the committee, and shall report directly to the committee.

(b) To exercise all of the rights, duties, and powers conferred upon investigating committees and their members by the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to this committee and its members.

(c) To contract, subject to approval of the Joint Rules Committee, with other agencies, public or private, as necessary to obtain services or studies which will assist the committee in carrying out its responsibilities.

(d) The chairperson and the vice chairperson, in consultation with the other committee members, shall reappoint a principal consultant and any other expert technical staff as may be required.

(e) The committee shall, within 15 days of authorization, and annually thereafter, present its annual budget to the Assembly Committee on Rules for its review and comment.

(f) To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this measure; and be it further

Resolved, That pursuant to Joint Rule 36.5, the committee shall continue to consist of three Members of the Senate, appointed by the Committee on Rules thereof, and three Members of the Assembly, appointed by the Speaker thereof; and be it further

Resolved, That the committee is additionally authorized to do all of the following:

(a) Draft legislation to implement the program described in the report of the joint committee to the Legislature.

(b) Provide to the fiscal committees of both houses of the Legislature precise information regarding the proposed sources and amounts of funds for the implementation of the report.

(c) Develop with dispatch any ongoing organizational structure

immediately needed to carry out the implementation of the report; and be it further

Resolved, That the committee shall, by June 30, 1991, take all steps necessary to implement the organization described in the report; and be it further

Resolved, That the Assembly Committee on Rules may make any money available from the Assembly Operating Fund that it deems necessary for the expenses of the committee and its members. Any such expenditure of funds shall be made in compliance with policies set forth by the Assembly Committee on Rules and shall be subject to the approval of that committee; and be it further

Resolved, That the committee is authorized to act until June 30, 1991, or until the date that an ongoing independent organizational entity to carry out the directions of the Legislature in this regard is established, whichever is sooner, at which time the committee shall terminate; and be it further

Resolved, That the Chief Clerk of the Assembly shall transmit copies of this resolution to the Governor, the Chairperson of the Assembly Rules Committee, the Chairperson of the Senate Rules Committee, and the directors of appropriate departments within state government.

RESOLUTION CHAPTER 33

Senate Concurrent Resolution No. 4—Relative to the California Law Revision Commission.

[Filed with Secretary of State May 10, 1991.]

WHEREAS, The California Law Revision Commission is authorized to study only topics set forth in the calendar contained in its report to the Governor and the Legislature which are thereafter approved for study by concurrent resolution of the Legislature, and topics which have been referred to the commission for study by concurrent resolution of the Legislature; and

WHEREAS, The commission, in its annual report covering its activities for 1990, lists 26 topics, all of which the Legislature has previously authorized or directed the commission to study; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature approves for continued study by the California Law Revision Commission the topics listed below, all of which the Legislature has previously authorized or directed the commission to study:

(1) Whether the law relating to creditors' remedies (including, but not limited to, attachment, garnishment, execution, repossession of property (including the claim and delivery statute, self-help

repossession of property, and the Commercial Code repossession of property provisions), civil arrest, confession of judgment procedures, default judgment procedures, enforcement of judgments, the right of redemption, procedures under private power of sale in a trust deed or mortgage, possessory and nonpossessory liens, and related matters) should be revised;

(2) Whether the California Probate Code should be revised, including, but not limited to, whether California should adopt, in whole or in part, the Uniform Probate Code;

(3) Whether the law relating to real and personal property (including, but not limited to, a Marketable Title Act, covenants, servitudes, conditions, and restrictions on land use or relating to land, possibilities of reverter, powers of termination, Section 1464 of the Civil Code, escheat of property and the disposition of unclaimed or abandoned property, eminent domain, quiet title actions, abandonment or vacation of public streets and highways, partition, rights and duties attendant upon assignment, subletting, termination, or abandonment of a lease, powers of appointment, and related matters) should be revised;

(4) Whether the law relating to family law (including, but not limited to, community property) should be revised;

(5) Whether the law relating to the award of prejudgment interest in civil actions and related matters should be revised;

(6) Whether the law relating to class actions should be revised;

(7) Whether the law relating to offers of compromise should be revised;

(8) Whether the law relating to discovery in civil cases should be revised;

(9) Whether a summary procedure should be provided by which property owners can remove doubtful or invalid liens from their property, including a provision for payment of attorney's fees to the prevailing party;

(10) Whether acts governing special assessments for public improvements should be simplified and unified;

(11) Whether the law on injunctions and related matters should be revised;

(12) Whether the law relating to involuntary dismissal for lack of prosecution should be revised;

(13) Whether the law relating to statutes of limitations applicable to felonies should be revised;

(14) Whether the law relating to the rights and disabilities of minor and incompetent persons should be revised;

(15) Whether the law relating to custody of children, adoption, guardianship, freedom from parental custody and control, and related matters should be revised;

(16) Whether the Evidence Code should be revised;

(17) Whether the law relating to arbitration should be revised;

(18) Whether the law relating to modification of contracts should be revised;

(19) Whether the law relating to sovereign or governmental immunity in California should be revised;

(20) Whether the decisional, statutory, and constitutional rules governing the liability of public entities for inverse condemnation should be revised (including, but not limited to, liability for damages resulting from flood control projects) and whether the law relating to the liability of private persons under similar circumstances should be revised;

(21) Whether the law relating to liquidated damages in contracts generally, and particularly in leases, should be revised;

(22) Whether the parol evidence rule should be revised;

(23) Whether the law relating to pleadings in civil actions and proceedings should be revised;

(24) Whether there should be changes to administrative law;

(25) Whether the law relating to the payment and the shifting of attorneys' fees between litigants should be revised;

(26) Whether the law relating to the adjudication of child and family civil proceedings should be revised, and whether a Family Relations Code should be established; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the California Law Revision Commission.

RESOLUTION CHAPTER 34

Assembly Joint Resolution No. 32—Relative to war reparations.

[Filed with Secretary of State May 22, 1991.]

WHEREAS, Over 470,000 American men and women have been uprooted from their families and peacetime careers to sacrifice their time and risk their lives for their country in the Iraq–Kuwait crisis; and

WHEREAS, The American people are united in their respect for the sacrifices suffered by America's men and women serving in Operation Desert Storm; and

WHEREAS, Those sacrifices also are borne stateside by military dependents whose reservist parents or spouses were called to active duty, and who were forced to leave behind their children, often with inadequate child care; and

WHEREAS, Due to the Iraq–Kuwait crisis, more than 11,500 members of the United States Military Reserve who are residents of California have been called to active duty to serve their country; and

WHEREAS, This sudden and unexpected call to arms has caused unavoidable financial and emotional hardship for those reservists, their families, and their dependents, and many of these reservists have suffered directly from substantial personal income reductions; and

WHEREAS, Reservists called to active duty often lose their salaries without receiving comparable compensation from the military, which is a direct loss or injury to our nationals within the meaning of paragraph 16 of United Nations Resolution 687; and

WHEREAS, The United Nations has created a fund to pay compensation for claims that fall within United Nations Resolution 687, which establishes a commission that will administer the fund; now, therefore, be it

Resolved, by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California memorializes the President of the United States to claim compensation from the United Nations compensation fund for the military families of the United States, who sacrificed employment income to provide military service, and for their employers, who continued payment of the difference in salaries, including the State of California; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Representative of the United States to the United Nations.

RESOLUTION CHAPTER 35

Senate Concurrent Resolution No. 16—Relative to the Gardena Freeway.

[Filed with Secretary of State June 3, 1991.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the portion of State Highway Route 91 from State Highway Route 710 to the eastern boundary of the City of Gardena be officially designated the "Gardena Freeway" in order to provide more accurate guidance for motorists traveling on that portion of State Highway Route 91; and be it further

Resolved, That this designation supersedes the present legislative designation of this segment of Route 91 as the Redondo Beach Freeway; and be it further

Resolved, That the Department of Transportation is hereby requested to determine the cost of erecting appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing the official designation and, upon receiving contributions sufficient to cover that cost, to erect those plaques and markers; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Director of Transportation and the Mayor of the

City of Gardena.

RESOLUTION CHAPTER 36

Assembly Concurrent Resolution No. 28—Relative to proclaiming "ROTC Week."

[Filed with Secretary of State June 4, 1991.]

WHEREAS, The Reserve Officer Training Corps (ROTC) was established on June 3, 1916, through the National Defense Act of 1916; and

WHEREAS, In 1991, the ROTC will therefore be celebrating its 75th Anniversary of recruiting and training future officers who are both well educated and highly motivated to serve in one of the four branches of the United States Armed Forces; and

WHEREAS, The ROTC's main mission continues to be enrolling the best college students and transforming them into commissioned officers of the highest quality by emphasizing leadership and personal achievement; and

WHEREAS, On-campus instruction consists of three components: military skills training, professional knowledge subjects, and professional military education, which are all integral components in producing the exceptional officers so vital to the United States Armed Forces; and

WHEREAS, Military skills training includes: leadership, written and oral communications, operations and tactics, land, air, and sea navigation, military law and justice, first aid, international law, physical fitness, weapons familiarity, defense training, management, and radio and wire communications; and

WHEREAS, Professional knowledge subjects encompass: military history, customs, and traditions; leadership and ethics; and administration, organization, and training; and

WHEREAS, All cadets and midshipmen attend the same sequenced course of training and are therefore given equal opportunity to show the leadership qualities necessary to earn a commission as an officer in the United States Armed Forces; and

WHEREAS, The ROTC provides the full cost of books, fees, and tuition to students who may not have been able to obtain a university education without financial assistance; and

WHEREAS, Cadets are encouraged to participate in community projects both on- and off-campus, and to lead full, active lives as citizens of the United States of America and as residents of their states and localities; and

WHEREAS, The recognition of "ROTC Week" will symbolize California's commitment to the ideals and philosophy illustrated in the ROTC's shield, which symbolizes courage, gallantry,

self-sacrifice, and the pursuit of knowledge, and the partnership of ROTC with American colleges and universities is emphasized in its motto "Leadership Excellence"; and

WHEREAS, The current Chairman of the Joint Chiefs of Staff, General Colin Powell, is a prime example of the fine quality of person and officer that is produced by the ROTC; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California hereby proclaims the week of June 2 to 8, 1991, as "ROTC Week"; and be it further

Resolved, That the Legislature hereby commends and congratulates the ROTC for 75 years of commitment to successfully providing leadership and opportunity to young men and women of our State and Nation; and be it further

Resolved, That the Chief Clerk of the Assembly shall transmit a copy of this resolution to the Governor, the President of the United States, and the Secretary of Defense of the United States.

RESOLUTION CHAPTER 37

Assembly Joint Resolution No. 2—Relative to the Antarctic Treaty and preservation of the Antarctic region.

[Filed with Secretary of State June 5, 1991.]

WHEREAS, The Antarctic provides habitat for a broad diversity of fish and wildlife, including many rare and endangered species; and

WHEREAS, Ninety percent of all the ice in the world, which contains seventy percent of all of the fresh water on Earth, is located on the Continent of Antarctica; and

WHEREAS, The cold waters surrounding Antarctica absorb more carbon dioxide from the atmosphere than all of the rain forests combined; and

WHEREAS, The Antarctic may well be worth far more to humanity intact, than it could ever be worth as a source of natural resources development; and

WHEREAS, California recognizes that it is in the interest of all mankind that Antarctica shall continue forever to be used exclusively for peaceful purposes and shall not become the scene or object of international discord; and

WHEREAS, California acknowledges the substantial contributions to scientific knowledge resulting from international cooperation in scientific investigation in Antarctica; and

WHEREAS, California agrees that the continuation and development of that cooperation on the basis of freedom of scientific investigation in Antarctica is in the best interest of science and the progress of all mankind; and

WHEREAS, The governments of Argentina, Australia, Belgium, Chile, the French Republic, Japan, New Zealand, Norway, the Union of South Africa, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America signed an agreement on December 1, 1959, to support and implement the Antarctic Treaty for the purposes of preserving the Antarctic environment and its heritage; and

WHEREAS, The primary purpose of the treaty is to protect the exceptionally pristine Antarctic ecosystem of water, air, land, flora, and fauna; and

WHEREAS, It is in the best interest of Californians to ensure that Antarctica is managed in the interest of all humankind, in a manner that conserves its unique environment, preserves its value for scientific research, and retains its character as a demilitarized, nuclear-free zone of peace, without harmful consequences to the local and global environment; and

WHEREAS, There are currently 24 Antarctic Treaty Consultative (voting) Parties, and 14 NonConsultative (nonvoting) Parties; and

WHEREAS, Treaty business is conducted in biennial meetings of the parties; and

WHEREAS, The biennial meeting commenced in Santiago, Chile, on Sunday, November 18, 1990, continued through Friday, December 7, 1990, and considered the following protective measures: basic principles, institutions, decision making, monitoring, dispute settlement, marine pollution, waste disposal, protected areas, tourism, and environmental impact assessments; and

WHEREAS, An agreement was reached to begin negotiations on a new instrument for the comprehensive protection of the Antarctic environment, and the principle of a prior environmental impact assessment before any human activity could take place was adopted; and

WHEREAS, No agreement was reached regarding mineral activities, but a consensus to continue the various protection measures and the voluntary constraint of countries with respect to mineral activities was reached; and

WHEREAS, The Consultative Parties have agreed to continue negotiations on the drafting of a new international instrument for the conclusive protection of the Antarctic environment and dependent ecosystems at another meeting commencing in Madrid, Spain, on Monday, April 22, 1991, to continue through Tuesday, April 30, 1991; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the State of California memorializes the President and the Congress of the United States to direct the Secretary of State to enter into continued negotiations with the Antarctic Treaty Consultative Parties at the convention in Spain to conclusively designate Antarctica as an environmentally protected region and further recognize the region as a protected global ecological commons; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Secretary of State.

RESOLUTION CHAPTER 38

Senate Concurrent Resolution No. 44—Relative to California Wine Appreciation Week.

[Filed with Secretary of State June 7, 1991.]

WHEREAS, The history of wine dates back countless ages, biblically sanctioned for its value as a consummate beverage; and

WHEREAS, California has a long wine and winegrape history beginning in 1769 when Padre Junipero Serra planted the first vineyards in San Diego; and

WHEREAS, The wines of San Gabriel developed into the largest and most prosperous of vineyards from which the winegrowing industry of California grew; and

WHEREAS, The first commercial vineyards were planted in Los Angeles in 1834 by Jean-Louis Vigne, who was the first wine producer in the state to make varietal wines of acceptable taste in considerable quantity; and

WHEREAS, The Gold Rush transformed northern California into an important viticulture region when many "49ers" in search of gold turned to growing grapes and making wine along with many other immigrants throughout California; and

WHEREAS, California has grown to become the leading producer of wine in America, now accounting for 72 percent of all wine, foreign and domestic, consumed in this country; and

WHEREAS, Winegrapes are grown in virtually every county of this state for processing by more than 800 wineries located throughout the state; and

WHEREAS, California grows more than 327,455 acres of winegrapes producing 2,570,707 tons of grapes per year valued at more than $718 million, as of 1990, with a direct and indirect impact on the state's economy totalling more than $8.6 billion; and

WHEREAS, California wines continually distinguish themselves as the best in world competitions and tastings, acquiring genuine respect from foreign competitors for quality wine production; and

WHEREAS, California wine, which refreshes the palate and enhances the appetite, has played a significant role in the development of culture and cuisine in this country; and

WHEREAS, Wine is one of the most civilized and natural beverages in the world and it has been developed to great perfection

in California; and

WHEREAS, Wine offers great enjoyment to, and is appreciated by, millions of Americans, and it adds to the environmental beauty and quality of life; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California commends the vintners of this state for their dedication to history and quality and also commends them for their commitment to enhancing their environment and communities; and be it further

Resolved, That the Legislature believes that California's exceptional wines should continue to be improved and promoted throughout the state; and be it further

Resolved, That the Legislature hereby proclaims the week of September 30 to October 6, inclusive, 1991, as "California Wine Appreciation Week," and likewise proclaims the first week that encompasses the first full weekend in October of each year as "California Wine Appreciation Week," to promote recognition and appreciation for the California wine industry.

RESOLUTION CHAPTER 39

Assembly Joint Resolution No. 28—Relative to funding for programs for immigrants.

[Filed with Secretary of State June 10, 1991.]

WHEREAS, The Congress of the United States adopted the Immigration Reform and Control Act of 1986 (IRCA) to legalize millions of individuals who were residing permanently or temporarily in the United States without proper documentation; and

WHEREAS, The act permitted the states to create and maintain education, health, and public assistance programs to assist individuals who were eligible for amnesty to transfer from undocumented to documented status; and

WHEREAS, Congress appropriated $4 billion to fund the State Legalization Impact Assistance Grants (SLIAG) program to assist states in the creation and maintenance of these programs; and

WHEREAS, Approximately 1.6 million immigrants currently reside in California, have applied for amnesty, and will become permanent residents of California; and

WHEREAS, Approximately 75 percent of the 1.6 million amnesty applicants are functionally illiterate in English, having scored below the 215 level on the Comprehensive Adult Student Assessment System which is equivalent to a fifth grade level and is the literacy benchmark used by California's welfare reform program to indicate a student's readiness for preemployment training; and

WHEREAS, The newly legalized population has a health profile

which includes a high incidence of diabetes, hypertension, upper respiratory problems, at risk pregnancies, high rates of pregnancies, and other conditions which lead to life-threatening illnesses; and

WHEREAS, The federal government through the Family Support Administration of the Department of Health and Human Services issued the SLIAG regulations more than eight months after the program was to have begun; and

WHEREAS, This delay was compounded by a lack of guidelines to be followed by states and their subcontractors in dealing with proper documentation and cost tracking standards; and

WHEREAS, The initial SLIAG federal regulations precluded states from spending SLIAG funds on outreach programs, and this resulted in much lower amnesty applicant participation in SLIAG programs; and

WHEREAS, The amnesty applicant population is difficult to reach through traditional outreach programs and for this reason specially tailored programs had to be created to encourage this population to access SLIAG programs; and

WHEREAS, The federal government issued regulations which permitted state governments to expend their SLIAG funds through 1994 and the State of California chose to use SLIAG funds over a minimum period of five years; and

WHEREAS, The use of SLIAG funded programs has increased every year they have been in existence, and the total demand for these programs is expected to remain at a high level; and

WHEREAS, Despite all these obstacles, California has drawn more than $962 million, or 75 percent, of its approximate $1.3 billion allocation, to date, in SLIAG funding and expects an upward trend in future expenditures; and

WHEREAS, The level of spending of SLIAG funds has resulted in the impression that the newly legalized population is not in need of education, health, and public assistance services; and

WHEREAS, This impression contradicts the experience in California where the newly legalized population is in great need of services to assist in its integration into the mainstream of society; and

WHEREAS, The General Accounting Office recommended concurrence with congressional action to restore SLIAG funds for 1992 if states could demonstrate increased use of SLIAG moneys; and

WHEREAS, The President has proposed to eliminate the allocation of $1.1 billion to the states for the SLIAG program, as proposed in the Federal Fiscal 1992 Budget; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to honor the commitment to restore previously deferred federal funding for the State Legalization Impact Assistance Grants program and to assist the amnesty population in the transition into the mainstream of American society; and be it further

Resolved, That the Legislature of the State of California further

memorializes Congress that the State of California approved and adopted a five-year program for spending its full SLIAG funding, and must accommodate 1.6 million, or more than 50 percent of the total amnesty population in the United States; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and the Vice President of the United States, the Secretary of Education, the Secretary of Health and Human Services, the Speaker of the House of Representatives, and each Senator and Representative from California to the Congress of the United States.

RESOLUTION CHAPTER 40

Assembly Concurrent Resolution No. 61—Relative to Management Week.

[Filed with Secretary of State June 12, 1991.]

WHEREAS, The week commencing June 3, 1991, has been designated Management Week by the National Management Association; and

WHEREAS, The National Management Association is an organization committed to the promotion of the free enterprise system, management as a distinct profession, and the certification of managers; and

WHEREAS, The National Management Association has over 72,000 members including approximately 20,000 members in 56 chapters in California; and

WHEREAS, In the past the management profession has significantly contributed to the strength and vitality of this country's economy, and in the future such skills will be particularly essential as we strive to strengthen and revitalize the economy of the State of California; and

WHEREAS, Management Week has been observed annually since 1978 and has been recognized through joint resolution by the Congress of the United States and by presidential proclamation; and

WHEREAS, The California chapters of the National Management Association will join with other managers nationwide to honor the role and achievements of managers in our society during Management Week; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California hereby proclaims the week commencing June 3, 1991, as Management Week in California and calls upon the citizenry to recognize and participate in the observance of this worthy occasion.

RESOLUTION CHAPTER 41

Senate Joint Resolution No. 16—Relative to vehicles.

[Filed with Secretary of State June 18, 1991.]

WHEREAS, Last year in the United States, more than 100,000 people were injured and more than 4,400 were killed in traffic accidents involving trucks, including 17,700 injured and 647 killed in California; and

WHEREAS, During the period from 1982 to 1989, inclusive, California experienced a 45 percent increase in truck-related injuries and fatalities, which resulted in more than 4,800 deaths and more than 120,000 injuries; and

WHEREAS, Multiunit truck trailer combinations are three times more likely to be involved in fatal accidents than passenger vehicles, and the occupant of a passenger vehicle is 45 times more likely to die in an accident involving a truck and passenger vehicle than the occupant of a multitrailer combination vehicle; and

WHEREAS, Roadside truck inspections conducted by the Department of the California Highway Patrol result in approximately one-third to one-half of the inspected vehicles being removed from service due to mechanical and safety problems; and

WHEREAS, Representatives of the trucking industry have proposed changes to existing law that would allow longer-combination vehicles (LCVs) on all federal interstate highways, which vehicles consist of triple 28- and twin 48-foot truck trailers and other vehicle combinations ranging in length from 110 feet to 120 feet and weighing from 110,000 pounds to 135,000 pounds, respectively; and

WHEREAS, Triple trailer combinations exhibit a serpentine effect when moving on a highway, changing lanes, or making turns and routinely sway several inches to several feet; and

WHEREAS, Existing highway interchanges and local road facilities are not physically or geometrically capable of accommodating many LCVs, all LCVs cause considerable encroachment into adjacent lanes while turning, and, according to the Department of Transportation, LCVs could not operate safely in a majority of urban areas in the state; and

WHEREAS, Congress is in the process of adopting legislation to reauthorize the federal highway and transit programs, and is considering proposals relative to the operation of longer and heavier truck trailer combinations on federal highways and on the highways of individual states; and

WHEREAS, The Senate Committee on Environment and Public Works has proposed to ban LCV's from states and areas where they are not currently in operation; and

WHEREAS, Public opinion research reveals that 72 percent of the public believe that truck lengths should not be changed, 82 percent

oppose proposals that allow twin 48-foot combinations, 92 percent oppose proposals that allow triple 28-foot trailer combinations, and 61 percent oppose even the limited operation of LCVs on the Interstate Highway System; and

WHEREAS, The proposals for larger trucks are also opposed by a broad coalition of highway safety organizations and representatives, insurance and automobile associations, consumer and environmental groups, and national municipal and legislative associations; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California, as a matter of legislative policy of this state, respectfully memorializes the President and Congress of the United States to refrain from enacting legislation which would permit the operation of triple trailer and other longer and heavier combinations of vehicles on California highways or impede the state's ability to regulate the operation of oversize vehicles on California highways; and be it further

Resolved, That the Legislature supports the action of the Senate Committee on Environment and Public Works to restrict the operation of longer-combination vehicles; and be it further

Resolved, That the Legislature supports legislative efforts to improve the highway safety of large vehicle combinations and reduce truck accidents and their attendant loss of life, injuries, financial costs, congestion and delay, and urges the President and the Congress to enact legislation which would further the attainment of these goals; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the chairperson of every congressional committee having jurisdiction over transportation and interstate commerce.

RESOLUTION CHAPTER 42

Senate Joint Resolution No. 26—Relative to air pollution.

[Filed with Secretary of State June 27, 1991.]

WHEREAS, The 1990 amendments to the federal Clean Air Act require states to implement a centralized system of automotive inspection and maintenance unless a state can demonstrate to the Administrator of the Environmental Protection Agency (EPA) that a decentralized system is equally effective; and

WHEREAS, The EPA is responsible for drafting "guidance" to the states on the demonstration of effectiveness of inspection and maintenance programs; and

WHEREAS, The EPA's guidance is not required to be published until November 1991, but the EPA has indicated it intends to publish the guidance in June 1991; and

WHEREAS, The EPA will be selecting one of four alternative guidance models for use by the states for evaluating inspection and maintenance systems, two of which the EPA has stated will likely preclude the use of decentralized inspections and will result in the states being forced to implement a centralized inspection system; and

WHEREAS, The EPA has not made available to the public its methodology or modeling used in the development of its guidance to states, and as a result the EPA's timetable for publishing its guidance will preclude meaningful public input to the EPA's guidance; and

WHEREAS, California has led the nation in the development of automotive inspection and maintenance programs to the benefit of better air quality; and

WHEREAS, California's decentralized inspection and maintenance program (Smog Check) represents over a decade of technical evaluation and enhancement, substantial political debate, significant private financial investment, and ample motorist experience; and

WHEREAS, The State Air Resources Board (ARB) and the Bureau of Automotive Repair have recently implemented an enhanced inspection and maintenance program with new, more sophisticated test equipment, stricter licensing and training for inspection mechanics, and expanded enforcement of program requirements; and

WHEREAS, The ARB has also adopted increasingly stringent emission reduction control regulations upon new vehicle manufacturers, including a requirement for the inclusion of on-board diagnostic equipment for new cars; and

WHEREAS, The EPA guidance modeling does not factor in any of the advances from the California program or any data from recent California experience; and

WHEREAS, The EPA timetable for issuing guidance will not allow the ARB to input data from a major evaluation of its inspection and maintenance program which is now underway; and

WHEREAS, The possibility of EPA's guidance requiring centralized testing has major potential economic public and political impacts which have not, but must be, fully evaluated before final guidance is issued; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California hereby urges the Environmental Protection Agency to immediately pursue the following course of action in the development of its guidance to the states:

(a) To refrain from publishing its guidance to states until it provides the ARB and other interested parties adequate time to

review and critique the modeling and other data underlying the assumptions used in developing the guidance; and

(b) To select guidance, including minimum performance requirements, which provides substantial emission reductions while providing maximum flexibility to California to demonstrate that the design of its chosen form of inspection, which will include elements of its nation-leading mobile source emissions control requirements, is equal in effectiveness to the form of inspection preferred by EPA; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Administrator of the Environmental Protection Agency.

RESOLUTION CHAPTER 43

Senate Concurrent Resolution No. 32—Relative to California Native Oak Day.

[Filed with Secretary of State June 27, 1991.]

WHEREAS, California's oak trees are part of the definition of the state's landscape: golden hills dotted with deep green trees; and

WHEREAS, California's oak woodlands provide forage for livestock, habitat for hundreds of species of wildlife, and visual enjoyment to residents and visitors to the state; and

WHEREAS, More than one million acres of oak woodlands have been lost since 1945, and the losses continue due to intensive conversion to agriculture and urban encroachment; and

WHEREAS, There are only 274,000 acres of valley oak left in California, which is unique to this state and most vulnerable to extinction; and

WHEREAS, There are only 2.9 million acres of blue oak and 39,000 acres of Engelmann oak, which is found only in southern California and Baja California, left in existence; and

WHEREAS, Several species of oak are not regenerating; and

WHEREAS, The continued health of oak woodlands is an indication of Californians' balance with their rural environment, and loss of this resource indicates a deteriorating relationship with our environment; and

WHEREAS, A number of local governments are regulating hardwood harvesting on private lands; and

WHEREAS, The State Board of Forestry, with the support of the range industry and in cooperation with the Department of Fish and Game, the Department of Forestry and Fire Protection, and the University of California, has undertaken a program of development, extension, and research with regard to information concerning California's oak woodlands; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature annually designates the first Friday in November as "California Native Oak Day" in the State of California; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the California Oak Foundation and to the author for appropriate distribution.

RESOLUTION CHAPTER 44

Assembly Joint Resolution No. 21—Relative to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers.

[Filed with Secretary of State July 9, 1991.]

WHEREAS, To promote safety of life and property at sea and the protection of the marine environment, the International Standards of Training, Certification and Watchkeeping for Seafarers were established in 1978; and

WHEREAS, This international convention on crew standards has been ratified by 78 nations, including all the major maritime nations in the world with the exception of the United States; and

WHEREAS, Foreign flag vessels carry 95 percent of all waterborne commerce into the United States; and

WHEREAS, Ratification by the United States of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers would provide the United States Coast Guard with the authority to enforce crew standards on foreign flag vessels in United States waters; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to ratify the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, as established in 1978; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the United States Secretary of Transportation, to the Speaker of the United States House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Commandant of the United States Coast Guard.

RESOLUTION CHAPTER 45

Assembly Concurrent Resolution No. 4—Relative to transportation corridors.

[Filed with Secretary of State July 9, 1991.]

WHEREAS, There is a great need for additional transportation corridors in western Riverside County, especially within the rapidly developing Hemet/San Jacinto Valley/Winchester area, to maintain local circulation and provide adequate regional access to the remainder of the western portion of the county and the adjacent counties of southern California; and

WHEREAS, The Department of Transportation is responsible for identifying and developing interregional transportation corridors; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Transportation is requested to provide oversight for, and to work cooperatively with, the Western Riverside Council of Governments, the Cities of Hemet and San Jacinto, the County of Riverside, and the Riverside County Transportation Commission to develop and conduct a transportation corridor study for the Hemet/San Jacinto/Winchester area; and be it further

Resolved, That the Legislature intends for all costs of developing and conducting the transportation corridor study, including the costs of the Department of Transportation, to be funded by the Riverside County Transportation Commission through the Western Riverside Council of Governments and that the results of the study be submitted to the transportation planning agency for consideration for inclusion in the regional transportation improvement program; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 46

Assembly Concurrent Resolution No. 12—Relative to California Schoolbus Safety Awareness Month.

[Filed with Secretary of State July 9, 1991.]

WHEREAS, More than 2.5 million pupils are transported to and from school each day by schoolbuses in California; and

WHEREAS, It is important that these children are safe during these daily trips; and

WHEREAS, Schoolbuses travel on many urban and rural roadways and are subjected to countless obstacles posing potential danger to

passengers; and

WHEREAS, The California Association of School Transportation Officials is an organization of professionals who are dedicated to protecting the safety of California's schoolchildren on our roadways; and

WHEREAS, It is appropriate that Californians recognize the importance of schoolbus safety to current and future generations of pupils; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Governor of the State of California proclaim October 1991, as California Schoolbus Safety Awareness Month and encourage all citizens to promote the safety of our schoolbuses and pupils.

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Governor.

RESOLUTION CHAPTER 47

Assembly Concurrent Resolution No. 21—Relative to the Chresten Knudsen Interchange.

[Filed with Secretary of State July 9, 1991.]

WHEREAS, Chresten Knudsen is the descendant of pioneer California families, and was raised and educated in Redlands, and received further education at the California Institute of Technology, where he earned a degree in civil engineering, and the University of Southern California; and

WHEREAS, He worked for the then California State Division of Highways in 1950 (now CALTRANS), and subsequently for private industry, using his many talents first to improve the manufacture of cement, then in the solution of land use problems in a firm which he established in Redlands; and

WHEREAS, He was elected to the City Council of Redlands in 1968, and worked tirelessly to improve public facilities, and his many accomplishments included the development of a master flood drainage plan, waste treatment sites, parks, community and senior centers, and downtown redevelopment; and

WHEREAS, A great supporter of citizen participation in government, he was appointed by Governor Reagan to the Santa Ana Regional Water Quality Control Board, and, as President of the San Bernardino Association of Governments, he was instrumental in the acquisition of federal funds for a much needed Tennessee Road extension to connect various major thoroughfares and replace a crossing over the Santa Ana River; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the interchange of Interstate Route 10 and

Tennessee Avenue in San Bernardino County is officially designated as the Chresten Knudsen Interchange; and be it further

Resolved, That the Department of Transportation is directed to determine the cost of erecting appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing this official designation, and, upon receiving donations from private sources covering that cost, to erect those plaques and markers; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 48

Assembly Concurrent Resolution No. 23—Relative to the George F. Butler Memorial Bridge.

[Filed with Secretary of State July 9, 1991]

WHEREAS, George F. Butler, a dedicated member of the California Highway Patrol since 1966, died December 8, 1986, of injuries sustained in the performance of his duties; and

WHEREAS, In the finest tradition of the California Highway Patrol, Officer Butler lost his life helping others while serving as a flight officer on the Golden Gate Division's helicopter which was assisting at the scene of a traffic accident; and

WHEREAS, Officer George F. Butler, a loving husband and father and respected member of his community, was held in high regard by his colleagues in the California Highway Patrol; and

WHEREAS, It is fitting, therefore, that the contributions of Officer Butler be appropriately memorialized; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That Bridge No. 21-49 crossing the Napa River on State Highway Route 29 in Napa County be officially designated the George F. Butler Memorial Bridge; and be it further

Resolved, That the Department of Transportation is requested to determine the cost of appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing the special designation and, upon receiving donations from nonstate sources covering that cost, to erect those plaques and markers; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 49

Assembly Concurrent Resolution No. 49—Relative to Purple Heart Veterans.

[Filed with Secretary of State July 9, 1991.]

WHEREAS, The Order of the Purple Heart for Military Merit, commonly referred to as the Purple Heart, is the oldest military decoration in the world in present use, having been established by George Washington on August 7, 1782; and

WHEREAS, The Order of the Purple Heart is the first military award made available to the common soldier, recognizing outstanding valor and merit; and

WHEREAS, The Purple Heart is intrinsically the world's costliest military decoration, with 19 separate operations required to make it from the rough heart stamped from bronze to the finished medal, plated with gold and enameled in various colors, suspended from a purple and white ribbon; and

WHEREAS, The Order of the Purple Heart is awarded to members of the armed forces of the United States who are wounded by an instrument of war in the hands of an enemy or awarded posthumously to the next of kin in the name of those who are killed in action or die of wounds received in action; and

WHEREAS, The Purple Heart is, therefore, a unique combat decoration, and the recipients are exclusively combat veterans; and

WHEREAS, The ongoing events in the Persian Gulf, where thousands of California citizens, together with hundreds of thousands of American fighting men and women, are distinguishing themselves, often at great personal risk, makes designating a day as the "California Purple Heart Veterans' Day" both fitting and timely; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the second Saturday of August in each year shall hereafter be proclaimed as the "California Purple Heart Veterans' Day;" and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Secretary of Defense of the United States, and to the Governor and the Adjutant General of the State of California.

RESOLUTION CHAPTER 50

Senate Joint Resolution No. 7—Relative to the Farms for the Future Act of 1990.

[Filed with Secretary of State July 11, 1991.]

WHEREAS, The Congress of the United States has passed and the President has signed the Farms for the Future Act of 1990 (P.L. 101-624); and

WHEREAS, The act authorizes the United States Department of Agriculture to adopt implementing regulations that guarantee the loans that lending institutions make to state trust funds for acquiring farmland; and

WHEREAS, The voters of California approved Proposition 70, on June 7, 1988, which makes state bond funds available for acquiring certain farmlands. This program may qualify as a state trust fund under the federal act; and

WHEREAS, Cooperation between the United States Department of Agriculture and the State of California will make each government's expenditures more productive by protecting more farmland; and

WHEREAS, The implementation of the Farms for the Future Act of 1990 requires federal funding and the timely adoption of federal regulations; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to include funding for the Farms for the Future Act of 1990 in the 1992 agriculture appropriations bill; and be it further

Resolved, That the Legislature respectfully memorializes the United States Department of Agriculture to promptly adopt and issue regulations to implement the Farms for the Future Act of 1990; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Secretary and Deputy Secretary of the United States Department of Agriculture, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 51

Senate Concurrent Resolution No. 3—Relative to the creation of the Joint Committee on School Facilities.

[Filed with Secretary of State July 11, 1991.]

WHEREAS, The Department of Finance estimates over 1.15 million new pupils will enter the K-12 public school system by 1995-96, averaging 230,000 new pupils each year for the next five years; and

WHEREAS, The needs for new construction, modernization, deferred maintenance, and air conditioning over the next five years total $16.97 billion; and

WHEREAS, Reducing class size, establishing year-round education, acquiring land, using portable classrooms, and providing access to the Leroy F. Greene Lease-Purchase Program are issues the Legislature is currently trying to resolve; and

WHEREAS, The Legislature enacted and the Governor signed a package of school facility bills in 1986 that were designed to establish a state and local partnership in financing school facilities and to increase building standards in order to provide suitable facilities; and

WHEREAS, The continued economic development of the state is dependent on the provision of adequate school facilities; and

WHEREAS, Continuous legislative oversight of the implementation of school facilities legislation and on-going review of school facility needs should be maintained; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Joint Committee on School Facilities is hereby established and authorized to do all of the following:

(1) Investigate, study, and analyze the statutory provisions relating to the financing, construction, reconstruction, and operation of school facilities.

(2) Conduct oversight hearings and investigations as necessary to evaluate the effectiveness and efficiency of the school facilities system.

(3) Formulate school facility legislation necessary to meet the need for additional school facilities; and be it further

Resolved, That the Joint Committee on School Facilities shall consist of four Members of the Senate, appointed by the Senate Committee on Rules, and four Members of the Assembly, appointed by the Speaker of the Assembly; and be it further

Resolved, That the Joint Committee on School Facilities and its members shall have and exercise all of the rights, duties, and powers conferred upon investigating committees and their members by the provisions of the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to this committee and its members; and be it further

Resolved, That the Joint Committee on School Facilities may contract, subject to the approval of the Senate Committee on Rules, with other agencies, public or private, as necessary to obtain services or studies that will assist the committee in carrying out its responsibilities; and be it further

Resolved, That the Senate Committee on Rules may make money available from the Contingent Fund of the Senate as it deems necessary for the expenses of the Joint Committee on School Facilities and its members. Any expenditure of money shall be made in compliance with policies set forth by the Senate Committee on Rules and shall be subject to the approval of the Senate Committee on Rules; and be it further

Resolved, That the Joint Committee on School Facilities shall, within 15 days of authorization, and annually thereafter, present its annual budget to the Senate Committee on Rules for its review and comment; and be it further

Resolved, That the Joint Committee on School Facilities shall submit a report at the end of each legislative session to the Legislature on its activities and recommendations for improvements in the school facilities system; and be it further

Resolved, That the Joint Committee on School Facilities is authorized to act until January 31, 1992, at which time the committee's existence shall terminate.

RESOLUTION CHAPTER 52

Assembly Concurrent Resolution No. 6—Relative to Route 66.

[Filed with Secretary of State July 11, 1991]

WHEREAS, U.S. Route 66, a 2,000-mile highway from Chicago, Illinois, to Santa Monica, California, has played a major role in the 20th century history of our country; and

WHEREAS, Route 66 has become a symbol of the American people's heritage of travel and their legacy of seeking a better life; and

WHEREAS, Route 66 served as a funnel for the 20th century migration from the Dust Bowl to the Central States; and

WHEREAS, Route 66 has been memorialized in books such as "The Grapes of Wrath," songs, motion pictures, and television programs, and has become an accepted part of American popular culture; and

WHEREAS, During the early 1980's, structures and other features along Route 66 began to disappear and their historical value was lost to the State of California and the nation; and

WHEREAS, Some portions of the highway have been turned over to local governments and are no longer in the state highway system; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the portion of former U.S. Route 66 extending from the California border to Santa Monica be officially designated as "Historic Highway Route 66"; and be it further

Resolved, That the Department of Transportation is requested to develop an appropriate marker for Historic Highway Route 66, consistent with signing standards, and to identify the cost of erecting a reasonable number of markers along the entire route of former U.S. Highway Route 66, in cooperation with affected local agencies, and in such a manner that will avoid a designation that would lead a motorist to conclude that the entire route is a state-maintained facility; and be it further

Resolved, That the Department of Transportation, for the portion of former U.S. Route 66 still under its jurisdiction, and local agencies, for the portions of former U.S. Route 66 currently under their jurisdiction, upon receiving donations from private sources and other nonstate funds covering the cost of erecting suitable markers, are hereby directed to erect those markers; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation, the Counties of Los Angeles and San Bernardino, and affected cities in those counties.

RESOLUTION CHAPTER 53

Assembly Joint Resolution No. 41—Relative to National Missing Children's Day.

[Filed with Secretary of State July 11, 1991.]

WHEREAS, A myriad of children are abducted from their families against their will, either by strangers or family members violating custody decrees, each year; and

WHEREAS, The rising incidence of crimes against children, child abduction in particular, has left many families feeling vulnerable and afraid; and

WHEREAS, On an average, 10 children have disappeared each day across the country in the last seven years; and

WHEREAS, There are 1,710 active files on missing children in California; and

WHEREAS, There have been over 481,000 attempted abductions and over 26,000 actual abductions nationwide since 1984; and

WHEREAS, Of the children that have been abducted, 17,481 have been located alive, 225 have been located deceased, and 9,039 remain missing; and

WHEREAS, In 1981, six-year-old Adam Walsh was kidnapped as he looked at toys in a Florida toy store and was later found brutally slain; now therefore, be it

Resolved, by the Assembly and the Senate of the State of California, jointly, That we commit ourselves to the pursuit of policies that will protect our country's most precious resource, our children; and be it further.

Resolved, That the Legislature condemns any crimes against innocent children, causing emotional or physical abuse, or death; and be it further

Resolved, That the Legislature, sharing a common concern for children, recognizes National Missing Children's Day, May 25, 1991, as a day to cherish and protect children, and to pray for each and every child who has been met with harm; and be it further

Resolved, That the Chief Clerk of the Assembly shall transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 54

Senate Concurrent Resolution No. 17—Relative to marine debris.

[Filed with Secretary of State July 16, 1991.]

WHEREAS, The California coast is one of the most magnificent coastlines in the world, providing a habitat for abundant and diverse species of marine mammals, fish, and birds, including several endangered species; and

WHEREAS, The coastal environment supports crucial economic resources important to all Californians, including a renewable commercial and sportfishing industry, and an annual multimillion dollar tourist and recreation industry; and

WHEREAS, Marine debris threatens fishing and boating safety due to plastic rope and line fouling propellers and plastic bags and sheeting clogging seawater intakes and evaporators, possibly stranding a mariner at sea as well as causing engine failures, costly repairs, and annoying delays; and

WHEREAS, Marine wildlife becomes entangled and ingests marine debris which often leads to death; and

WHEREAS, Marine debris poses hazards for marine recreational users because divers become entangled in nearly invisible ghost nets and beach users step on broken glass and may encounter syringes; and

WHEREAS, Marine debris profoundly diminishes the pristine, scenic quality of the coastline and could lead to a serious decline in tourism and recreational activities; and

WHEREAS, Approximately 140 million people visit California's beaches each year; and

WHEREAS, Marine debris is a serious problem in California and will likely worsen with population increases along the coast; and

WHEREAS, Marine debris transcends borders and washes into critical marine wildlife habitats, including the Point Reyes National

Seashore, Ano Nuevo State Reserve, and the Channel Islands National Marine Sanctuary; and

WHEREAS, Marine debris is costly for coastal communities to clean off the beach, with Los Angeles County alone having spent over $5 million in 1989 to clean its beaches, and the cost continues to increase; and

WHEREAS, A diverse cross-section of government agencies, industry, educational representatives, scientists, citizen organizations, and concerned individuals worked together to develop the California Marine Debris Action Plan, which includes recommendations for state agency action on eliminating marine debris from the California coastline; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California supports the recommendations made in the California Marine Debris Action Plan; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Governor and to the Secretary of Environmental Affairs.

RESOLUTION CHAPTER 55

Senate Concurrent Resolution No. 20—Relative to federal support and funding for the arts.

[Filed with Secretary of State July 16, 1991.]

WHEREAS, Artists and arts organizations and institutions contribute immeasurably to the quality of life and to our state's economy; and

WHEREAS, California is widely regarded as a mecca for the literary, performing, and visual arts because our state is blessed with a creative community of great commitment and vitality; and

WHEREAS, California's artists and arts institutions and organizations have had great success in securing grants from the National Endowment for the Arts; and

WHEREAS, They have matched NEA funds with grants from the private sector, creating additional funds to benefit all Californians and increasing the value of ever scarcer funds available for the arts; and

WHEREAS, Grants from the National Endowment for the Arts have contributed greatly to the preservation of traditional art forms and to the emergence of newer forms of art and of multicultural arts organizations; and

WHEREAS, To comply with provisions of the Williams-Coleman Re-authorization of the NEA, enacted by Congress in 1990, the NEA has abandoned and curtailed programs of great importance to

California including the Museum Purchase program, special artistic initiatives program for museums, the inter-arts program and special projects in media arts and the NEA will be forced to approve fewer grants to California artists, institutions, and organizations under other NEA programs; and

WHEREAS, Redirected block grants to the California Arts Council will not replace the funds lost to artists and arts organizations and institutions; and

WHEREAS, California has 11 percent of the United States population and an even higher percentage of its artists; and

WHEREAS, The current block grant redistribution formula created by the NEA is biased against California, its size as well as its significance to the arts in America; and

WHEREAS, The state has an important role in ensuring that our arts community continues to flourish; and

WHEREAS, It is essential that the Legislature work with the California Congressional Delegation to have the NEA grant formula changed to treat the arts in California more equitably; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Arts Council determine the extent of the loss of federal support for the arts to the state and calculate how much funding would come to California via the block grant if population were a primary consideration in the redistribution and further advise the Legislature on ways to maximize National Endowment for the Arts funding to the Arts Council and to the artists of this state; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Arts Council.

RESOLUTION CHAPTER 56

Senate Concurrent Resolution No. 34—Relative to district agricultural associations.

[Filed with Secretary of State July 16, 1991.]

WHEREAS, In a report entitled "The State of California Needs to Improve the Management of Its Local Fairs Program" issued in January 1986, the Auditor General determined that the Division of Fairs and Expositions of the Department of Food and Agriculture did not exercise sufficient oversight and monitoring of district agricultural associations (hereafter district fairs); and

WHEREAS, The Auditor General determined that:

(a) The department had not followed proper personnel practices in setting the salaries of district fair managers and in allowing fairs to retain temporary employees longer than six months.

(b) The department had not ensured that district fairs had adequate internal controls over equipment, cash and disbursements, and travel expenses.

(c) The department had not ensured that the Division of Fairs and Expositions and the district fairs followed proper contracting procedures, spent state funds properly, or that the fairs had repaid their loans to the state promptly.

(d) The district fairs had not maximized their revenues by charging admission to various events or by renting their facilities during the periods that the facilities were not used for fair purposes.

(e) The district fairs had not followed a program of regular preventive maintenance to prevent their facilities from deteriorating; and

WHEREAS, The Auditor General recommended that the department take the following actions to correct the deficiencies in its contracting practices:

(a) Follow all state laws and regulations pertaining to contract administration and contract procedures.

(b) Obtain approval of the Department of General Services on contracts over $10,000 and require competitive bidding for these contracts.

(c) Require district fairs to submit all contracts over $10,000 to the department for approval, ensure that each contract is approved by the Department of General Services, and that each contract is awarded after competitive bidding.

(d) Ensure that all district fair contracts, agreements, and contract amendments are in writing; and

WHEREAS, The Auditor General recommended that the department take the following actions to correct the deficiencies in the use of public funds by the department and district fairs:

(a) Obtain the approval of the Department of Finance before expending funds designated for district fairs for departmental purposes.

(b) Periodically review district fairs' expenditures to ensure that state funds are spent for authorized purposes.

(c) Define, in the Fairs Administrative Manual, the specific types of expenditures that district fairs may make for public relations purposes.

(d) Periodically review district fairs' purchase documents to ensure that purchases are approved by the Department of General Services; and

WHEREAS, The Auditor General recommended that, in order for the department to improve its collections on loans due to the state from district fairs, it should work with the fairs to develop alternative sources of revenue and identify ways to reduce the fairs' costs, establish loan repayment schedules based on the ability of each fair to repay its loan, and establish and maintain accounts receivable ledgers and ensure that the loan records are complete; and

WHEREAS, The Auditor General recommended that the

department do all of the following:

(a) Encourage district fairs to charge admission and aggressively market the rental of their facilities, in order to improve their revenues.

(b) Ensure that salary increases are granted in accordance with the policies of the department in order to prevent salary overpayments of district fair managers.

(c) Require district fairs to transmit copies of all personnel actions to the Division of Fairs and Expositions, which should periodically review these personnel actions to prevent district fairs from improperly retaining temporary employees for periods longer than six months.

(d) Require district fairs to develop and implement preventive maintenance programs that should identify high priority projects that need to be completed to protect the health and safety of persons using fair facilities in order to correct the deteriorated condition of the fairs.

(e) Review the maintenance programs of district fairs and periodically monitor their progress in implementing these programs; and

WHEREAS, The Auditor General further recommended that the department take the following actions to improve district fairs' internal controls and to improve their compliance with state laws and regulations:

(a) Establish a periodic schedule of audits of district fairs which should include, but not be limited to, financial reviews, reviews of internal controls, and reviews of compliance with state rules and regulations. The compliance review should focus on matters such as compliance with state contracting requirements, use of temporary personnel, appropriateness of expenditures, and appropriateness of the district fairs' control over state assets.

(b) Review and follow up on deficiencies noted by the department's auditors to ensure that these deficiencies are corrected by the district fairs.

(c) Include a provision, in the Fairs Administrative Manual, that requires district fairs to keep records of their equipment and to control sensitive items of equipment; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That a joint hearing of the Senate Agriculture and Water Resources Committee and the Assembly Agriculture Committee be held at an appropriate time to specifically address what corrective actions have been taken by the department to eliminate the deficiencies set forth in the report entitled "The State of California Needs to Improve the Management of Its Local Fairs Program" issued in January 1986, by the Auditor General; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Governor and to the Director of Food and Agriculture.

RESOLUTION CHAPTER 57

Senate Joint Resolution No. 11—Relative to veterans' benefits.

[Filed with Secretary of State July 16, 1991.]

WHEREAS, In World War II, the soldiers of the Philippine Army were called into the service of this country in the early days of that war; and

WHEREAS, Many Filipino veterans have been discriminated against by the classification of their service as not being service rendered in the United States Armed Forces for purposes of benefits from the federal Department of Veterans' Affairs; and

WHEREAS, Filipinos gallantly served at Bataan and Corregidor, giving the United States valuable time to rearm materiel and men to launch the counter-offensive in the Pacific war; and

WHEREAS, On January 19, 1989, House Resolution 525 was introduced in the United States House of Representatives to extend the filing period for Filipinos who served in the United States armed forces during World War II, to become naturalized citizens of the United States; and

WHEREAS, On January 2, 1991, the first petitions were filed under the new law that extended the filing period for Filipinos who served in the United States armed forces during World War II, to become naturalized citizens of the United States; and

WHEREAS, On January 3, 1991, House Resolution 104 was introduced in the United States House of Representatives to provide that persons considered to be Commonwealth Army veterans by reason of service with the armed forces of the United States during World War II in the Philippines will be eligible for full veterans' benefits from the Department of Veterans' Affairs; and

WHEREAS, The proposed legislation would bring relief to the estimated remaining 60,000 to 80,000 Filipino veterans out of the initial 175,000 to 200,000 troops who risked their lives during World War II, surviving the occupation of the islands and the infamous Bataan Death March, and who, now in their mid-60's to mid-90's, have been battling for years to obtain the benefits of other veterans of that war; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to act favorably on legislation pertaining to granting full veterans' benefits to Filipino veterans of the United States armed forces; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 58

Senate Joint Resolution No. 18—Relative to vehicles.

[Filed with Secretary of State July 16, 1991.]

WHEREAS, The safe operation of commercial vehicles is a major concern of the California Legislature; and

WHEREAS, Accidents involving heavy commercial vehicles cause death, injury, and property damage; and

WHEREAS, Resolution Chapter 82 of the Statutes of 1988 requested the Governor to establish a task force to investigate, and to make recommendations to improve, heavy commercial vehicle and driver safety in California; and

WHEREAS, The Governor's Heavy Commercial Vehicle and Driver Safety Task Force has made the following findings:

(1) In 1989, approximately 134 accidents occurred in California as a result of tractor and trailer combinations making right turns and colliding with vehicles driving parallel to those vehicle combinations.

(2) The length and width of some commercial vehicles make it difficult for drivers of other vehicles to see those commercial vehicles at night, which causes unsafe traveling conditions; and

WHEREAS, The mandatory installation and usage of lighting equipment and reflective materials on commercial vehicles would ensure the safer operation of those vehicles; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorialize the National Highway Traffic Safety Administration to adopt new vehicle equipment regulations to ensure the safe operation of heavy commercial motor vehicles; and be it further

Resolved, That the National Highway Traffic Safety Administration adopt regulations which would require all new commercial motor vehicles and semitrailers with a length of 40 feet or more to be equipped with turn signals mounted at approximately the side midpoint of the vehicle; and be it further

Resolved, That the National Highway Traffic Safety Administration adopt regulations which would require all new commercial motor vehicles and semitrailers with a length of 40 feet or more, or a width of 80 inches or more to be equipped with reflective tape or material which clearly delineates the length and width of those commercial vehicles to other vehicles approaching from the side or rear of the commercial vehicle during the hours of darkness; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Administrator of the National Highway Traffic Safety Administration.

RESOLUTION CHAPTER 59

Assembly Concurrent Resolution No. 46—Relative to the Institute for Regenerative Studies.

[Filed with Secretary of State July 16, 1991.]

WHEREAS, The Institute for Regenerative Studies at California State Polytechnic University, Pomona, has been established on a 16-acre site as a component of LandLab, Cal Poly's 339-acre facility for education and research in the area of sustainable and renewable resources; and

WHEREAS, The primary purpose of the institute is to foster the growth and application of regenerative technologies; and

WHEREAS, The institute will contain facilities for the study of a broad range of practices and technologies dealing with energy, water, shelter, food production, waste disposal, and other activities essential to our society; and

WHEREAS, The institute will be an environmentally oriented community in which students and faculty members work with regenerative technologies as an integral part of their daily lives, by growing their own food, generating energy through renewable resources, managing the thermal environment, and recycling waste materials and by-products; and

WHEREAS, The institute is conceived as a microcosm incorporating the full range of life-support functions for a small society in a manageable space; and

WHEREAS, Graduate and undergraduate students will learn through participation in laboratory application, research, and applied experiments conducted on the site; and

WHEREAS, Students so educated should have the capacity and awareness necessary to bring a new type of leadership, and other innovative and economically sound solutions, to problems of finite resource utilization; and

WHEREAS, Regenerative technologies are multidisciplinary in nature and embrace such fields of study as agriculture, aquaculture, architecture, landscape architecture, engineering, and science; and

WHEREAS, Professionals from several disciplines will be involved in the research activity of the institute; and

WHEREAS, Information derived from research will be available to the public at large, including business, industry, or other interested groups, and demonstration of processes involved will be open to visitors and educational groups; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature recognizes that the Institute for Regenerative Studies is an innovative attempt, through the development of economically viable regenerative technologies using the public education system of higher learning, to enhance the competitive advantage of California's economy while positively

enhancing the state's ecological environment and strengthening its economic system, and is a project worthy of private financial support.

RESOLUTION CHAPTER 60

Assembly Joint Resolution No. 7—Relative to nonprescription drug labeling.

[Filed with Secretary of State July 16, 1991.]

WHEREAS, The federal Food and Drug Administration is responsible for the safety, efficacy, and labeling of nonprescription drug products; and

WHEREAS, Over the last decade, the Food and Drug Administration has permitted more prescription drugs to be switched to over-the-counter classification than in the entire previous history of United States government regulation of drug products for consumers; and

WHEREAS, A number of these drugs can have serious side effects when taken incorrectly or in combination with certain other drugs; and

WHEREAS, The vision-impaired and the elderly are the most susceptible to contraindication risk associated with overmedication and the combination of certain drugs; and

WHEREAS, These risks can be minimized by improving the readability of drug labels, particularly the information regarding dosage and contraindication risks; and

WHEREAS, The Legislature at its 1989–90 Regular Session passed, and the Governor signed, Section 26637.5 of the Health and Safety Code which encourages drug manufacturers who sell nonprescription drugs in the State of California to improve the readability of nonprescription drug labels; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California hereby proposes that the federal Food and Drug Administration promulgate and enforce regulations which improve the readability of all nonprescription drug labels; and be it further

Resolved, That the Legislature of the State of California respectfully memorializes the Congress and the President to enact legislation which would address the concerns set forth in this measure; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this measure to the President and the Vice President of the United States, the Speaker of the House of Representatives, the Chairpersons of the House and Senate Committees on Aging, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 61

Assembly Joint Resolution No. 9—Relative to social security.

[Filed with Secretary of State July 16, 1991.]

WHEREAS, When the United States Congress amended the Social Security Act in 1972 to increase retirement benefits to reflect cost-of-living increases, a technical flaw in the amended benefit formula overcompensated people who retired after 1972; and

WHEREAS, Congress corrected its error by amending the Social Security Act in 1977 to bring benefits back to historical levels and phased in the reduction over five years, affecting individuals born between 1917 and 1926, the so-called "notch" years; and

WHEREAS, The phase-in period has not provided a smooth transition, but has resulted in "notch babies" receiving as much as $3,000 per year less in benefits than people who have similar work histories but were born in 1916; and

WHEREAS, Members of Congress have for several years tried to pass legislation that would establish a uniform benefit formula to treat those born in the "notch" years equitably; and

WHEREAS, The Legislature of the State of California feels that the continued inequities in benefits received by persons born during the "notch" years undermines public confidence in the social security system and, consequently, affirms its commitment to the equitable distribution of social security benefits; now, therefore, be it

Resolved, by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California hereby respectfully memorializes the President and the Congress of the United States to enact appropriate legislation which would prospectively correct the "notch" in social security benefit payments for persons born between 1917 and 1926; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the chairpersons of the House and Senate Committees on Aging, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 62

Assembly Joint Resolution No. 4—Relative to hazardous liquid pipeline regulation.

[Filed with Secretary of State July 16, 1991.]

WHEREAS, Over 7,200 miles of hazardous liquid pipeline exist in this state; and

WHEREAS, The State Fire Marshal has full safety regulatory and enforcement authority over intrastate hazardous liquid pipelines; and

WHEREAS, The State Fire Marshal acts as an agent for the federal Department of Transportation over hazardous liquid interstate pipelines within this state; and

WHEREAS, As agent for the federal Department of Transportation, the State Fire Marshal has not been extended full enforcement authority over interstate pipelines; and

WHEREAS, The pipeline rupture and fire on May 25, 1989, in San Bernardino, which killed two persons, injured dozens, and destroyed 10 homes, occurred on an interstate pipeline; and

WHEREAS, Due to staffing constraints, the Office of Pipeline Safety in the federal Department of Transportation relies almost entirely on pipeline safety engineers employed by the State Fire Marshal to conduct inspections and otherwise ensure the safety of hazardous liquid pipelines within the state; and

WHEREAS, Uniformity in pipeline safety regulations is important to the operation of interstate pipelines, and this uniformity is most likely to be achieved if federal pipeline safety requirements are considered sufficient by the states to prevent hazardous liquid pipeline disasters and to protect the public safety; and

WHEREAS, It is important that the federal government take all appropriate action, in cooperation with state and local jurisdictions, to prevent hazardous liquid pipeline disasters and protect the public's safety; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to amend the Hazardous Liquid Pipeline Safety Act of 1979, as amended, (49 U.S.C. Sec. 2001 and following) to authorize the federal Department of Transportation to extend to its state agents, such as the State Fire Marshal, full enforcement authority over interstate pipelines within a state; and be it further

Resolved, That the Hazardous Liquid Pipeline Safety Act of 1979, as amended, be further amended to include provisions applicable to interstate hazardous liquid pipelines which achieve at least an equal level of structural integrity and operating safety as that provided for by Chapter 5.5 (commencing with Section 51010) of Part 1 of Division 1 of Title 5 of the Government Code which, among other things, requires practices such as periodic examination and inspection of intrastate pipelines; and be it further

Resolved, That the Hazardous Liquid Pipeline Safety Act of 1979, as amended, be further amended to authorize the federal Department of Transportation to require that an operator of a hazardous liquid pipeline, which will be newly constructed, notify the federal department or its state agent not less than 30 days before

construction begins; and be it further

Resolved, That the Hazardous Liquid Pipeline Safety Act of 1979, as amended, be further amended to require that, if an existing line is to be replaced or relocated in substantially the same structural configuration and it will be located within the existing right-of-way, or within a reasonable proximity of the existing right-of-way, but this replacement or relocation does not constitute new construction, the operator shall not later than the day that construction commences, provide the federal Department of Transportation or its state agent with a route map detailing the location of the replaced or relocated hazardous liquid pipeline; and be it further

Resolved, That the Hazardous Liquid Pipeline Safety Act of 1979, as amended, be further amended to authorize the federal Department of Transportation to delegate to state agents, during major pipeline emergencies where public safety is threatened, the authority to order the shutdown of a hazardous liquid interstate pipeline; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Transportation, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the State Fire Marshal.

RESOLUTION CHAPTER 63

Assembly Concurrent Resolution No. 7—Relative to the Monterey Bay National Marine Sanctuary.

[*Filed with Secretary of State July 19, 1991*]

WHEREAS, The National Oceanic Atmospheric Administration is reviewing the plans for the Monterey Bay National Marine Sanctuary; and

WHEREAS, This is a unique opportunity to protect almost the entire central California coast, including 3,800 square nautical miles, by joining the Monterey Bay Sanctuary with the Gulf of the Farallones National Marine Sanctuary to the north and extending the boundary to near Cambria in San Luis Obispo County to the south; and

WHEREAS, The United States Department of Interior may lease portions of the outer continental shelf along the central coast of this state to oil companies for offshore oil leasing, which would have dramatic impacts on air and water quality and would increase oil tanker traffic, discharge toxic drilling muds into ocean waters, and impact the fishing, tourism, and recreational industries; and

WHEREAS, The National Marine Sanctuary designation could

assist in controlling and minimizing the threats of hazardous waste dumping and discharges, noise and ocean traffic carrying hazardous chemicals and oil, and oil drilling and mining in these sensitive waters; and

WHEREAS, Boundary Alternative Five will offer protection and management for the largest comprehensive discrete marine ecosystem which exists on the central coast; and

WHEREAS, It is possible to protect and restore our marine species, but only with strong habitat preservation programs like the National Marine Sanctuary Program; and

WHEREAS, From March to May annually, some 18,000 gray whales and their young trek up the California coast for summer feeding in the Bering Sea, and every fall the pregnant females leave the Bering Sea to migrate south, the longest migration of any mammal; gray whales are expanding their numbers after being once reduced to near extinction, and the gray, blue, humpback, and fin whales are just a few of the endangered species who visit the waters included in Boundary Alternative Five; and

WHEREAS, In 1927 the population of California sea lions was thought to be less than 1,000, but now the population is closer to 50,000, and they are enjoyed by many people who see them using the offshore islands, rocky points, and isolated beaches for rest and sleep; both the California and Steller sea lions can be seen on Seal Rock near the Cliff House in San Francisco, and from many other observation points along the coast; and

WHEREAS, Ano Nuevo State Reserve is the largest breeding ground of the Steller sea lion with the population of breeding females numbering only 200 and some 2,000 animals counted on the beaches in recent years; mortality among the new pups reaches as high as 50 percent as the young are often crushed in the confusion and struggle; and

WHEREAS, California elephant seals, which sometimes reach 17 feet long and can weigh up to 5,000 pounds, also come ashore at Ano Nuevo State Reserve; this species has come back from the brink of extinction in the 1800s; in the early 1900s the population was probably less than 100 animals and some scientists think as few as 20; in the early 1960s, Ano Nuevo hosted over 400 elephant seals; today, scientists think that at least 12 colonies exist on the California and Baja coasts with a population in excess of 100,000; and

WHEREAS, At one time the northern and southern sea otter herds were continuous wherever there were beds of kelp; the southern herd once ranged from the Farallon Islands south to Baja; today the southern herd, which numbers about 1,600 is listed as threatened with extinction; and

WHEREAS, An incredible variety of invertebrates flourish in the area between the land and sea; an inventory of invertebrates on a California beach could exceed 300 species with many rare and reclusive species that are invisible to a casual observer; red abalone, a favorite food of the sea otter, is found there along with limpets and

snails, sea stars, red rock crabs, shrimps, sea anemone, and sea urchins. These species represent an important link to the ecology of the ocean and mammals; and

WHEREAS, The Boundary Alternative Five represents the most biologically comprehensive approach to preserving our ocean, coast, and marine species; and

WHEREAS, Vital industries such as tourism, commercial fishing, and recreation are directly dependent on a clean, attractive, and productive coastline, and the retail value of area fisheries in the proposed Monterey Bay Sanctuary Boundary Area Five and the Farallon Island Sanctuary are worth approximately $150 million, tourism in the area is worth approximately $7.8 billion, sport fishing in the area is worth $118 million, boating is worth $633 million, and marine research facilities are worth $50 million per year; and

WHEREAS, Maritime related industries and recreational boating produced $5.4 billion in revenues, and more than 97,626 jobs are dependent on deep channels for navigation; and

WHEREAS, Over 1,000 oil tankers and barges per year travel under the Golden Gate Bridge, and over 4 billion gallons of petroleum products are transported on tankers and barges along the central coast with no vessel traffic lanes between Pillar Point and Point Arguello, and there is an insignificant amount of oil equipment dedicated to tankers traveling the open seas on the central coast and south of San Francisco Bay, and the area has no radar monitoring, and very rough seas and weather, making prevention and response very difficult if not impossible; and

WHEREAS, The protection afforded our marine mammals, ocean, and coastline through the designation of the area as a marine sanctuary is a timeless gift, the value of which will be appreciated and shared for generations to come; and

WHEREAS, The dredging of deep water channels at area ports is essential for smooth operation of commerce and maintenance of jobs in the region; and

WHEREAS, A Long Term Management Strategy (LTMS) consisting of studies of potential dump sites to seek a balance between environmental and economic concerns is being undertaken with the support of a variety of government agencies and interest groups; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Governor is hereby requested to proclaim California's support to the President and the Congress of the United States for Boundary Alternative Five for the proposed Monterey Bay National Marine Sanctuary in order to protect the central California coast, including 3,800 square nautical miles, by joining the Monterey Bay Sanctuary with the Gulf of the Farallones National Marine Sanctuary to the north and extending the boundary to near Cambria in San Luis Obispo County to the south with stringent regulations, including a ban on offshore oil drilling, undersea strip mining, and oil tanker traffic within the sanctuary

except for closely monitored "port access" routes to the Moss Landing terminal and San Francisco Bay; and be it further

Resolved, That the Legislature does not intend to preclude dredging activities if they meet the standards of the Marine Protection, Research, and Sanctuaries Act, or studies for long-term disposal of dredge materials pursuant to the LTMS process; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Governor of the State of California.

RESOLUTION CHAPTER 64

Assembly Concurrent Resolution No. 69—Relative to the election of Boris Nikolaevich Yeltsin as President of the Republic of Russia and the establishment of legislative staff, educational, industrial, agricultural, and technical exchanges with the Republic of Russia.

[Filed with Secretary of State July 19, 1991.]

WHEREAS, On June 12, 1991, Boris Nikolaevich Yeltsin was overwhelmingly chosen as the first democratically elected president of the Soviet Republic of Russia in history; and

WHEREAS, Mr. Yeltsin's election represents the affirmation of the rights of the individual to determine his or her future and represents the triumph of the ideals of democracy; and

WHEREAS, Mr. Yeltsin courageously came to the aid of the Baltic republics of Lithuania and Latvia in their attempt to become democratic, independent states; and

WHEREAS, Mr. Yeltsin has become the most prominent advocate of reform of the Soviet economy and political system; and

WHEREAS, The Russian Republic is currently undergoing substantial change and making efforts to allow greater freedom of expression at the polling booth; and

WHEREAS, The critical challenge faced is to stabilize reforms and new institutions; and

WHEREAS, Successful political and economic reform brightens the prospects for world peace; and

WHEREAS, California boasts an extraordinary wealth of academic and governmental knowledge in areas vital to the enhancement and preservation of democratic government and free enterprise; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California commends Boris Yeltsin for his courage and perseverance in winning a free and fair election as the President of the Soviet Republic of Russia and for setting his entire nation on the road towards change; and be it further

Resolved, That the people and the government of the State of California are urged to collaborate of exchanges in legislative staff and of educational, industrial, agricultural, and technical knowledge and products with the Republic of Russia.

RESOLUTION CHAPTER 65

Assembly Concurrent Resolution No. 34—Relative to the Leslie A. Lowden Memorial Bridge.

[Filed with Secretary of State July 22, 1991.]

WHEREAS, Leslie A. Lowden, a resident of Yuba City since 1954, will long be remembered for her outstanding contributions to the community, and to youth organizations in particular; and

WHEREAS, For over two decades, she held leadership positions in Girl Scouts, Boy Scouts, and Cub Scouts, and was the recipient of one of scouting's highest awards, the Silver Fawn, in recognition of her service to youth; and

WHEREAS, She was both an avid supporter and Team Mother in Little League Baseball, served on the Assembly Advisory Board of the Rainbow Girls, and was a Sunday school teacher and assisted with the youth choir at St. John's Episcopal Church; and

WHEREAS, Mrs. Lowden found time for her numerous civic activities while successfully raising five children, Dick, Kim, Scott, Jay, and Tracy, and being a model grandmother; and

WHEREAS, Leslie A. Lowden died on July 25, 1989, the innocent victim of an alcohol-related traffic accident in southern Sutter County; and

WHEREAS, Since 1857, her family has been instrumental in the development of highways and transportation in California, beginning with the construction and operation of a private toll road between Redding and Weaverville, and has provided outstanding service to the State Department of Transportation and its predecessor, the California Division of Highways, since 1912; and

WHEREAS, It is fitting, therefore, that the many outstanding contributions of Leslie A. Lowden and her family be appropriately memorialized; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Sutter Bypass bridge on State Highway Route 113 in Sutter County be officially designated the Leslie A. Lowden Memorial Bridge; and be it further

Resolved, That the Department of Transportation is directed to determine the cost of appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing the special designation and, upon receiving donations from nonstate sources covering that cost, to erect those plaques and markers; and

be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 66

Assembly Concurrent Resolution No. 44—Relative to residential care facilities for the elderly.

[Filed with Secretary of State July 22, 1991.]

WHEREAS, The fastest growing portion of California's population is also its oldest; and

WHEREAS, The oldest of California's seniors, those most likely to be frail and in need of care or assistance, are increasing in number the fastest, with an anticipated growth by the year 2020 of 92 percent of those between 75 and 84 years of age and 144.6 percent of those aged 85 years and above; and

WHEREAS, The care and assistance required by frail or ill elders ranges from minor assistance at home to full-time care in a residential situation; and

WHEREAS, The demand for long-term residential care, both in nursing homes and residential facilities, is expected to grow in proportion to the number of Californians over the age of 75 years; and

WHEREAS, Presently, approximately 3,900 licensed residential care facilities for the elderly house about 90,000 elder persons; and

WHEREAS, An unknown number of unlicensed boarding homes house an even larger number of elder persons throughout the state; and

WHEREAS, National and statewide studies have indicated that the quality of care in many residential care facilities is less than adequate and, in some cases, extremely poor; and

WHEREAS, Cases of abuse, neglect, and unhealthy, unsafe, and uncaring conditions in residential care facilities and boarding homes have been identified by state agencies and in press reports; and

WHEREAS, The state is hindered in its attempts to assure an acceptable quality of care in residential care facilities for the elderly by very limited knowledge about the supply of facilities, both licensed and unlicensed, and who is being served; and

WHEREAS, It is further hindered by inadequate information about the current and anticipated demand for residential care, including information about the age, sex, race, health status, geographic distribution, and ability to pay of those likely to need such care; and

WHEREAS, Policy makers are hindered in their ability to explore alternative systems of care by the lack of information about

alternative approaches and model programs that are in place in other states and counties; and

WHEREAS, The Legislature has a deep interest in assuring that all aging Californians live comfortably, maintain their dignity, and receive the care they need; and

WHEREAS, The Institute of Health and Aging at the University of California, San Francisco, is initiating a privately funded study of the roles and functions of residential care facilities for the elderly; and

WHEREAS, This study will offer information about the current and anticipated need for residential care facilities for the elderly, the current and anticipated supply of such services, the nature and variety of residential care services, and alternative approaches to meeting the need for residential care facilities; and

WHEREAS, The study will conclude with a set of recommendations regarding how California can best meet the needs of its frail elderly and the place of residential care facilities in the spectrum of necessary services; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Assembly and Senate Offices of Research, the Department of Aging, and the State Department of Social Services are requested to cooperate with the Institute of Health and Aging in conducting the activities and supplying the information required to provide to the Legislature a clear picture of California's current and anticipated need for residential care facilities for the elderly, gaps and problems in the current system, and options for meeting future need; and be it further

Resolved, That the Institute of Health and Aging be requested to share its findings, conclusions, and recommendations with the Legislature during the 1993–94 Regular Session of the Legislature; and be it further

Resolved, That the Legislature commends the private institutions and foundations participating in this public and private partnership which shall enhance the understanding of long-term care needs and identify solutions to this serious problem facing the state and its elders.

RESOLUTION CHAPTER 67

Assembly Concurrent Resolution No. 52—Relative to World Cup 1994.

[Filed with Secretary of State July 22, 1991.]

WHEREAS, The Federation Internationale de Football Association, the world governing body for soccer, upon the application of the United States Soccer Federation, has designated the United States as the host country for World Cup 1994, the world's

largest single sporting event; and

WHEREAS, The San Francisco Bay area and the Los Angeles area are bidding to become two of the 12 communities throughout the United States that will host World Cup 1994 matches in June and July 1994; and

WHEREAS, These two areas offer superb facilities for staging major international soccer matches, as demonstrated in the 1984 Olympics, when the San Francisco Bay area very successfully supported nine soccer matches at Stanford Stadium in the preliminary rounds and the Los Angeles area hosted the final rounds; and

WHEREAS, The San Francisco Bay area and the Los Angeles area are primary destinations for international visitors to the United States and offer all of the services and amenities that will meet the needs of international visitors; and

WHEREAS, California is the United States' gateway to Pacific Rim countries and within its jurisdiction offers the greatest range of ethnic heritage and diversity in the United States, with many of our people being born and raised in countries where soccer is the major sport; and

WHEREAS, The State of California actively supported the conduct of the Olympic games in Los Angeles by passing appropriate legislation that was necessary to facilitate the conduct of these games; and

WHEREAS, It is anticipated that hosting World Cup 1994 will result in a positive economic impact on the State of California while enhancing the international reputation of the state; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the State of California welcomes World Cup 1994 and declares its full support of the efforts of the local organizing committees in the San Francisco Bay area and in the Los Angeles area, to be selected as World Cup 1994 sites; and be it further

Resolved, That the Assembly and Senate of the State of California encourage the Governor and all affected state departments to cooperate fully with World Cup 1994 organizing committees so that they will ultimately be selected as World Cup 1994 sites; and be it further

Resolved, That, upon being selected as a venue site for World Cup 1994, the Governor and state agencies work with the World Cup 1994 organizing committees to provide all of the necessary services to ensure a safe, successful, and enjoyable World Cup 1994 consistent with the kind of support that was provided in 1984 that made the Los Angeles Olympics such a successful international sporting event.

RESOLUTION CHAPTER 68

Senate Concurrent Resolution No. 12—Relative to the Judicial Council.

[Filed with Secretary of State July 23, 1991.]

WHEREAS, There is a need to improve the coordination of legal actions for families involved in multiple cases in multiple departments within a superior court; and

WHEREAS, Related legal actions can be better coordinated if each county adopts a protocol describing how families involved in multiple cases in multiple departments of the courts should be identified, how coordination of issues should be decided, and how information should be exchanged; and

WHEREAS, Cooperative case management and exchange of information is essential in all cases concerning children and family members appearing in multiple departments of the courts on multiple issues; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Judicial Council be requested to adopt a standard of judicial administration to encourage each superior court to develop rules or protocols to provide for the coordination of services and court orders relating to families who are involved in cases that are in more than one department of the court at or near the same time; and be it further

Resolved, That the Judicial Council be requested to develop and adopt a model rule for the coordination of services and court orders for families who are involved in cases that are in more than one department of the court at or near the same time, to be followed by local courts which fail to adopt a local court rule.

RESOLUTION CHAPTER 69

Senate Concurrent Resolution No. 24—Relative to merit awards.

[Filed with Secretary of State July 23, 1991.]

WHEREAS, Section 19823 of the Government Code provides that awards in excess of $3,000, when approved by concurrent resolution of the Legislature, may be made to state employees for adopted proposals; and

WHEREAS, An award of $3,000 has already been made to Robert E. Salon, Employment Development Department, for a proposal, resulting in annual net savings and increased revenue of $36,440, for recommending that a section be added to the Employer's Quarterly Report Adjustment Form whereby employers could compute the amount of penalty and interest due when submitting late

remittances of employee's tax and wage contributions; and

WHEREAS, An award of $3,000 has already been made to Kelly K. Krug, Department of Food and Agriculture, for a proposal, resulting in annual savings of $31,848, for recommending that the Office of Information Technology adopt a policy requiring that personal computers, statewide, be shut off at the end of the day unless there is a specific need for 24-hour operation; and

WHEREAS, An award of $3,000 has already been made to Ian Ekholm, Department of General Services, for a proposal resulting in annual net savings of $71,008, for recommending that newspaper advertising expenses for leased space be reduced by publishing ads once a week, on the same day, in all major newspapers statewide; and

WHEREAS, An award of $3,000 has already been made to Nathan R. Lanni, Department of General Services, for a proposal resulting in annual net savings and cost avoidance of $111,975, for the development of a computer automation system, which would replace manual calculations required for a school district's new construction funding eligibility, under the Leroy Green Lease-Purchase Program; and

WHEREAS, An award of $3,000 has already been made to Neal F. Graham, Department of Motor Vehicles, for a proposal resulting in net annual savings of $126,760, for recommending equal application of the department's fee requirement for automatic name index and driver's license data base for both single and volume requestors; and

WHEREAS, An award of $3,000 has already been made to Jack M. Lee, Department of Motor Vehicles, for a proposal resulting in savings of $40,400, for recommending that driver insurance information be entered into the driver's record data base file for easier access; and

WHEREAS, An award of $3,000 has already been made to Vernon L. Jones, Department of Water Resources, for a proposal resulting in savings of $75,015 by designing a porcelain heat tip for a high frequency induction welder rather than purchasing a more expensive and unsatisfactory product from the manufacturer; and

WHEREAS, An award of $3,000 has already been made to Donald L. Griffith, Department of Water Resources, for a proposal resulting in savings of $35,030 and a safer work environment, for the design and construction of a portable grinding machine to replace the hand grinding method; and

WHEREAS, An award of $3,000 has already been made to Terry T. McMichael, State Teachers' Retirement System, for a proposal, resulting in increased revenue of $36,313, for recommending the development and sale of a personal computer software program to assist members in calculating retirement benefits under various circumstances which in turn provide greater flexibility in financial planning; and

WHEREAS, These employee's proposals have resulted in annual savings and net revenue gain amounting to $564,789; and

WHEREAS, As a result of these savings, it is unnecessary to

appropriate additional funds for payment of awards to these employees; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby declares that the following additional awards, authorized by the Department of Personnel Administration, are hereby made as follows to the employees named:

Robert E. Salon, $644
Kelly K. Krug, $185
Ian Ekholm, $4,101
Nathan R. Lanni, $2,599
Neal F. Graham, $9,676
Jack M. Lee, $1,040
Vernon L. Jones, $751
Donald L. Griffith, $903
Terry T. McMichael, $631

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Controller and the Department of Personnel Administration.

RESOLUTION CHAPTER 70

Senate Concurrent Resolution No. 26—Relative to the coordination of public social services.

[Filed with Secretary of State July 23, 1991]

WHEREAS, There exists a variety of federal, state, and local public agencies to address the economic, educational, health, social service, and other needs of California's children and families; and

WHEREAS, Each of these public agencies has a specific objective in its provision of services that results in conflicting goals and overlapping jurisdictions, duplication of efforts, and gaps in services; and

WHEREAS, This complex maze of agencies is especially inefficient and ineffective for the most needy and vulnerable Californians, who experience difficulty gaining access to program services administered by these agencies; and

WHEREAS, Fragmentation in the human service delivery system creates further barriers to services for the most needy Californians and results in programs addressing individuals' needs rather than general family needs and the family issues that underlie many of the problems individuals face; and

WHEREAS, These agencies additionally are bound by categorical restrictions on funding which limit flexibility in service delivery to meet the needs of families; and

WHEREAS, These agencies must function and administer

programs within an increasingly limited fiscal environment; and

WHEREAS, Several local initiatives seek to integrate the services of these different agencies as a means of improving services to meet the needs of families and children; and

WHEREAS, New Beginnings, a strategy for integrated services for children and families, has resulted from the involvement of the City of San Diego, County of San Diego, San Diego City Schools, San Diego Community College District, and the San Diego Housing Commission; and

WHEREAS, New Beginnings will demonstrate this integrated services approach for families on or near a schoolsite in San Diego in 1991; and

WHEREAS, The New Beginnings model shows promise for adaptation and modification in other areas in San Diego County and California as a comprehensive system of services which is worthy of receiving commitments for long-term funding; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature commends the cooperation of local agencies, recognizes the promise of the New Beginnings concept, and encourages its adaptation to other locations and governmental units; and be it further

Resolved, That the Legislature of the State of California take an active leadership role in establishing long-term, effective solutions to promote and maintain the health and well-being of all families and children, and in encouraging appropriate administrative actions to reduce the barriers to needed program services for families and children.

RESOLUTION CHAPTER 71

Senate Concurrent Resolution No. 27—Relative to waste transformation.

[Filed with Secretary of State July 23, 1991]

WHEREAS, Various federal and state laws regulate the agricultural industry and provide for waste management; and

WHEREAS, Wastes from plants and animals, derived either in urban or rural areas, are like in character, and, with present technology, may be transformed to usable renewable commodities through hydrolysis, fermentation, distillation, composting, or anaerobic digestion; and

WHEREAS, Over 50 million tons of urban waste is generated annually in the state, 7.5 million tons of which is of plant origin that is disposed at landfill sites; and

WHEREAS, Over 10.5 million tons of agricultural waste is produced annually in the state, over 1.2 million tons of which is

disposed by field burning; and

WHEREAS, Over 500,000 tons of sewage sludge is generated annually in the state, 60 percent of which is disposed at landfill sites and 12 percent is applied as agricultural soil amendments; and

WHEREAS, Anaerobic digestion of animal waste or sewage sludge reduces the risk of pathogenic exposure and water contamination and produces recoverable fuel, including methane, and high-grade nutrient rich organic fertilizer usable on plants that are not used for food; and

WHEREAS, The development of integrated infrastructures to transform these wastes would reduce the amount of waste disposed at landfill sites, reduce field burning, and lead to greater production of organic fertilizers; and

WHEREAS, The transformation of these wastes in rural areas would encourage the producers of agricultural products to grow feedstock to supplement transformation and further reduce dependence on federal subsidy programs; and

WHEREAS, The disposal of urban waste of plant or animal origin at landfill sites is subject to tipping charges and the costs of collecting agricultural waste often exceed the market price of a transformed commodity; and

WHEREAS, Linking the transformation processes, utilizing both urban and rural plant or animal waste, offsets collection and transformation costs of like commodities for conversion to valuable, renewable resources; and

WHEREAS, The application of technology and techniques to develop new uses of these commodities and their transformation processes would lead to creation of goods and services that may be marketed for profit as renewable resources that could create new jobs in the rural areas and favorably impact on the quality of life in this state; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California requests the Department of Food and Agriculture, as the lead agency, to develop an adaptive strategy for the utilization of agricultural waste and urban plant and animal wastes for the purpose of developing new commodities, that are not usable for food or feed, for widespread commercial use. The adaptive strategy shall include, but not be limited to, the following:

(a) The Legislature requests the Director of Food and Agriculture, in consultation with the Secretary of Environmental Affairs, to determine which urban wastes have like characteristics as agricultural wastes.

(b) The Department of Food and Agriculture may request funding for research, development, and demonstration projects in the Budget Act and from all federal grant sources, including requests for grants from alternative agricultural research and commercialization programs, the production and marketing of alcohols and industrial hydrocarbons from agricultural commodities

and forest products programs, biomass energy demonstration projects, and composting research and extension programs, as provided by federal law.

(c) The Legislature requests the department, in cooperation with growers, waste handlers, and others, to demonstrate technologies that convert urban and agricultural wastes to usable, renewable commodities and that reduce the volume of organic material disposed at landfill sites and field burning; and be it further

Resolved, That for purposes of this measure, "agricultural wastes" means solid wastes of plant or animal origin that result from the production and processing of agricultural products, including manures, orchard and vineyard prunings, and produce residues; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Director of Food and Agriculture.

RESOLUTION CHAPTER 72

Senate Concurrent Resolution No. 40—Relative to vehicles.

[Filed with Secretary of State July 23, 1991.]

WHEREAS, Existing law provides special parking privileges to any disabled person or disabled veteran who has lost, or has lost the use of, one or more lower extremities, is blind, or has other specified physical disabilities; and

WHEREAS, Existing law provides temporary special parking privileges to any person who is temporarily disabled for a period of less than one year; and

WHEREAS, A disabled person or disabled veteran is substantially benefited by the special parking privileges which allow those persons to park for unlimited time periods in time-restricted zones or without payment of any parking meter fees; and

WHEREAS, Many nondisabled persons park in violation of existing law which provides those parking privileges for disabled persons, thereby denying disabled persons the full benefit of existing law; and

WHEREAS, Local law enforcement and parking control authorities, in many cases, are insufficiently staffed to enforce the laws regarding parking privileges for disabled persons; and

WHEREAS, Existing law, Section 22507.9 of the Vehicle Code, authorizes local authorities to establish special local disabled parking enforcement units, and to establish hiring guidelines which encourage and enable the employment of qualified disabled persons in those special enforcement units; and

WHEREAS, Local agencies generally have not established local disabled parking enforcement units and may not be aware of the existence of Section 22507.9; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature urges cities and counties to actively consider establishing and operating special local disabled parking enforcement units as authorized by existing law, and to encourage the employment of qualified disabled persons in those units; and be it further

Resolved, That the Legislature urges cities and counties and local parking enforcement agencies to enforce the laws regarding parking privileges for disabled persons, and to develop and commit the personnel and resources necessary to reduce or eliminate the current problem of unlawful parking by nondisabled persons; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Executive Director of the League of California Cities and the Executive Director of the County Supervisors Association of California.

RESOLUTION CHAPTER 73

Senate Joint Resolution No. 13—Relative to equal treatment of Americans.

[Filed with Secretary of State July 23, 1991.]

WHEREAS, The United States, in conjunction with Arab and European allies, unleashed a massive bombing attack on Iraqi armed forces in Iraq and occupied Kuwait on January 16, 1991; and

WHEREAS, Thousands of Americans of Arab descent live in the United States as American citizens; and

WHEREAS, Many Iraqi Americans now residing in the United States fled the brutality and persecution instigated by the Hussein regime; and

WHEREAS, Many Americans of Arab descent have fought in the United States armed forces against Iraq; and

WHEREAS, Hate crimes and other forms of physical harassment of Arab Americans have increased at an alarming rate since the beginning of the Iraq-Kuwait Crisis; and

WHEREAS, In response to increased concerns about terrorism in the United States, the Federal Bureau of Investigation has reportedly conducted "interviews" and investigations in the Arab-American community based on the ethnicity or national origin of Arab Americans and without reasonable cause; and

WHEREAS, The activities of the Federal Bureau of Investigation have unfairly aroused suspicion of Arab Americans and encouraged hate crimes against Arab Americans; and

WHEREAS, The Congress of the United States is considering passage of House Concurrent Resolution 56, which expresses the

sense of Congress that federal agencies should not engage in discrimination that threatens the civil liberties of Arab Americans and should assist in protecting Arab Americans from hate crimes and related discrimination.

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California supports equal treatment of all Americans, regardless of race, ethnicity, or religion; and be it further

Resolved, That this Legislature condemns any form of physical or emotional harassment of Arab Americans and other groups; and be it further

Resolved, That federal agencies should assist in protecting Arab Americans from hate crimes and related discrimination; and be it further

Resolved, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to pass House Concurrent Resolution 56; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 74

Assembly Joint Resolution No. 22—Relative to civil rights.

[Filed with Secretary of State August 21, 1991.]

WHEREAS, Historically the United States was founded upon the principle that all people are created equal; and

WHEREAS, In practice, discrimination against individuals based solely upon their color, religion, gender, or national origin has been an unfortunate part of this country's history; and

WHEREAS, Some of the ways this discrimination has manifested itself is in the areas of housing, job opportunities, and education; and

WHEREAS, For most of our country's history, it has been difficult for minorities to achieve equal opportunities and change has been slow in coming; and

WHEREAS, The Constitution of the State of California explicitly states that no citizen may be granted privileges not granted to another; and

WHEREAS, The citizens of the State of California are committed to the ideals of democracy and justice advanced by our Federal and State Constitutions; and

WHEREAS, In 1963, the Reverend Dr. Martin Luther King, Jr.

wrote from the Birmingham jail, "Injustice anywhere is a threat to justice everywhere;" and

WHEREAS, The Civil Rights Act of 1964 dramatically strengthened laws preventing discrimination in employment and injustice in other areas, and was a landmark in this country's efforts to ensure equality to all citizens; and

WHEREAS, In a series of recent decisions addressing employment discrimination claims under federal law, the Supreme Court of the United States cut back on the scope and effectiveness of civil rights protections; and

WHEREAS, Existing protections and remedies under federal law are not adequate to deter unlawful discrimination or to compensate victims of discrimination; and

WHEREAS, It is incumbent upon the California Legislature to request that the Congress restore the civil rights protections which were so dramatically limited by these recent Supreme Court decisions, and to strengthen the existing protections and remedies available under civil rights laws, in order to provide more effective deterrence of discrimination, and adequate compensation for the victims of discrimination; and

WHEREAS, There is a bill currently moving through Congress, House Resolution 1, that is designed to restore and strengthen the civil rights laws banning discrimination in employment and to accomplish other purposes; and

WHEREAS, This bill, the Civil Rights Act of 1991, would restore the prohibition against racial discrimination in the creation and enforcement of contracts, restore the burden of proof of unlawful employment practices in disparate impact cases, clarify the prohibition against impermissible consideration of race, color, religion, sex, or national origin in employment practices, facilitate prompt and orderly resolution of challenges to employment practices that carry out litigated or consent judgments or orders, grant all protected classes the same right to recover damages for intentional employment discrimination, and restore strong civil rights enforcement; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That existing protections and remedies available under federal civil rights laws should be strengthened to provide more effective deterrence and adequate compensation for victims of discrimination; and be it further

Resolved, That the Legislature of the State of California respectfully requests the President and the Congress of the United States to pass House Resolution 1, the Civil Rights Act of 1991, which responds to recent decisions of the Supreme Court of the United States by restoring the civil rights protections that were limited by those decisions; and be it further

Resolved, That the Chief Clerk of the Assembly shall transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and

to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 75

Senate Concurrent Resolution No. 35—Relative to vehicles.

[Filed with Secretary of State August 22, 1991.]

WHEREAS, Pursuant to Section 34501.12 of the Vehicle Code, a part of the California Commercial Motor Vehicle Safety Act of 1988, the Department of the California Highway Patrol is required to inspect motor carrier terminals and maintenance facilities at least once every 25 months, and this requirement is known as the biennial inspections of terminals or "BIT" program; and

WHEREAS, In the course of an inspection under the BIT program, the patrol may encounter information or conditions indicating a substantial violation of a federal law or regulation or a statute or regulation enforced by another agency of this state; and

WHEREAS, It is desirable that these substantial violations be called to the attention of the appropriate entity; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Department of the California Highway Patrol is encouraged, whenever it encounters substantial violations of a federal law or regulation or a statute or regulation enforced by another agency of this state during the course of an inspection of a motor carrier terminal or maintenance facility, to inform the federal agency or other state agency having jurisdiction of the matter of that violation; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Commissioner of the California Highway Patrol.

RESOLUTION CHAPTER 76

Assembly Joint Resolution No. 12—Relative to federal child welfare and foster care programs.

[Filed with Secretary of State August 26, 1991.]

WHEREAS, The Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272) has been in effect for over a decade; and

WHEREAS, The number of abused and neglected children being placed in out-of-home care for their protection is increasing; and

WHEREAS, Existing family preservation programs initiated by California show great benefits and cost effectiveness; now, therefore,

be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature hereby respectfully requests the President and the Congress of the United States to do all of the following:

(a) Review and update provisions of the federal Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272);

(b) Support provisions that strengthen the ability of states to operate family preservation programs that result in a reduction of the need for out-of-home placements utilizing funding provided under Part E of Title IV of the Social Security Act (42 U.S.C. Sec. 670 et seq.) for the placement of children;

(c) Support provisions that encourage the development of multifaceted, broad-based, family preservation programs combining features of juvenile justice, mental health, and social service programs;

(d) Support provisions that provide for a 90 percent federal match under Part E of Title IV of the Social Security Act (42 U.S.C. Sec. 670 et seq.) for the planning, development, and installation of statewide automated child welfare data-processing systems;

(e) Support provisions that provide respite care for foster parents to assist them in meeting the needs of children who are victims of substance abuse or have special medical needs; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Governor, to the Secretary of the State Health and Welfare Agency, to the Secretary of Child Development and Education, to the Director of the State Department of Mental Health, to the Director of the State Department of Social Services, and to the Director of the Department of the Youth Authority.

RESOLUTION CHAPTER 77

Assembly Joint Resolution No. 36—Relative to pest control.

[Filed with Secretary of State August 26, 1991.]

WHEREAS, Integrated pest management is important to the future of California's agricultural industry and the environment; and

WHEREAS, Insect pests, such as the Lygus hesperus, cause great damage to the California cotton industry, at a cost of as much as $645 million a year; and

WHEREAS, The application of insecticides on cotton would be reduced if biological control techniques could be implemented for pest control; and

WHEREAS, An efficacious, nonchemical Lygus hesperus control program in the San Joaquin Valley will greatly enhance prospects for the biological control of cotton, seed alfalfa, and safflower insects in California and serve as a model for future pest control in complex cropping systems; and

WHEREAS, The proposed New Mexico State University research project, the Integrated Management of Lygus hesperus in the San Joaquin Valley, would biologically control Lygus hesperus with augmentative releases of the Anaphes iole wasp, implement an insect evaluation system, and establish an insect control program based on the data from the evaluation study; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California finds and declares that the Integrated Management of Lygus hesperus in the San Joaquin Valley is an essential part of the development of California's integrated pest management program and California's cotton pest control program in particular; and be it further

Resolved, That the Legislature of the State of California proclaims its full support for the United States Department of Agriculture to fund the Integrated Management of Lygus hesperus research project in the San Joaquin Valley; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the United States Department of Agriculture, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 78

Assembly Joint Resolution No. 39—Relative to electric vehicles.

[Filed with Secretary of State August 27, 1991.]

WHEREAS, The movement of people and goods in California depends primarily on motor vehicle transportation and is critical to the economic well-being of the state; and

WHEREAS, California is now dependent upon oil, particularly foreign oil, to sustain the transportation sector of the state's economy, which consumes about one-half of the oil used in California, and about one-half of this oil is consumed as fuel for automobiles and other light duty vehicles; and

WHEREAS, While new car fuel economy is increasing, about 40 percent more gasoline is consumed in the state today than in 1970, due primarily to increases in the number of vehicles in the state and the number of vehicle miles traveled each year; and

WHEREAS, Burning gasoline and diesel fuel in internal combustion engines to power transportation now accounts for nearly

one-half of the reactive organic gases, over one-half of the nitrous oxides, and over three-fourths of the carbon monoxide polluting California's air, and these elements are the primary components of the mobile source pollutants contributing to the state's urban smog and carbon monoxide pollution; and

WHEREAS, California's high demand for petroleum based fuels has increased the volume of oil transported along our coast, and this oil transport is a direct threat to our coastline and the environment as evidenced by recent and repeated tanker oilspills; and

WHEREAS, The use of alternative clean fuels, including electricity, in vehicles must be accelerated in order for California to retain its economic vitality, reduce its dependence on oil, particularly foreign oil, significantly reduce its major source of air pollution, and begin to reduce the potential for environmental damage from oilspills; and

WHEREAS, Accelerating the commercialization of electric vehicles and the infrastructure to service and fuel electric vehicles is an essential and cost-effective alternative to internal combustion engines, since electric vehicle operation reduces major pollutant emissions by over 90 percent compared to gasoline-powered vehicles, including the emissions produced when generating electricity to charge the vehicle batteries; and

WHEREAS, Power for electric vehicles would be produced in electric generating plants in California and surrounding states operating under strict environmental controls and using a wide mix of readily available fuels; and

WHEREAS, A number of companies doing business in California have demonstrated prototype electric vehicles and have indicated a commitment to produce and market electric vehicles, and many companies, as well as state, county, and local government agencies, are introducing electric vehicles in their vehicle fleets and in various demonstration programs; and

WHEREAS, Federal law requires introduction of clean alternative fuel vehicles into vehicle fleets across the United States in areas failing to meet air quality standards, and recent California air quality regulations require the sale of zero emission vehicles, like electric vehicles, near the end of this decade, but government action is needed to facilitate necessary commercialization; and

WHEREAS, The United States Congress is now considering the National Electric Vehicle Act of 1991 introduced as H.R. 1538 by Congressman Brown and S. 768 by Senator Rockefeller, to establish a national electric vehicle research, demonstration, and commercialization program; and

WHEREAS, The proposed National Electric Vehicle Act of 1991 includes over $100,000,000 over several years in grant funds for state partnership research, demonstration, and incentive programs; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That, in addition to existing state policies in support of

low-emission vehicle technologies, it is the policy of the State of California to support and facilitate development and commercialization of electric vehicles in California, and development of the necessary infrastructure to support extensive use of electric vehicles throughout the state, in order to expedite the attainment of substantial reductions in air pollution, improvements in energy conservation, and reductions in the state's dependence on oil, particularly imported oil; and be it further

Resolved, That the California Legislature strongly urges passage by the United States Congress of the National Electric Vehicle Act of 1991 as introduced by Senator Rockefeller and Congressman Brown in the 102nd Congress; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, each Senator and Representative from California in the Congress of the United States, the Public Utilities Commission, and the State Energy Resources Conservation and Development Commission.

RESOLUTION CHAPTER 79

Assembly Concurrent Resolution No. 36—Relative to higher education.

[Filed with Secretary of State August 27, 1991]

WHEREAS, Current projections indicate that California must prepare to accommodate more than 700,000 additional students in its public higher education system within the next 14 years, which may require the construction of several new campuses of the University of California, California State University, and California Community Colleges; and

WHEREAS, California's future economic, social, and cultural development depends upon popular access to an educational system which prepares all of the state's inhabitants for responsible citizenship and meaningful careers in a multicultural democracy; and

WHEREAS, Long-term planning for California's future higher education needs must continue despite short-term resource shortfalls; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature commits to planning for expansion of its public higher education system in accordance with the educational policy goals proposed in the April 1989 report "California Faces ... California's Future: Education for Citizenship in a Multicultural Democracy" issued by the Joint Committee for Review of the Master Plan for Higher Education, particularly those

elements concerning quality undergraduate education, student and faculty diversity, improved transfer and retention programs, and effective accountability mechanisms; and, be it further

Resolved, That the Regents of the University of California, the Trustees of the California State University, and the Board of Governors of the California Community Colleges are requested to proceed with preparing for anticipated enrollment demand within the admission eligibility pools prescribed by the Master Plan for Higher Education, including planning for additional campuses approved by the California Postsecondary Education Commission and the Legislature pursuant to Sections 66903 and 66904 of the Education Code; and be it further

Resolved, That the Legislature finds and declares all of the following:

(1) The San Joaquin Valley sends fewer than 5 percent of its high school graduates to the University of California, a far smaller proportion than the statewide average of almost 8 percent.

(2) Access to postsecondary education is determined, in significant measure, by proximity to college campuses.

(3) The San Joaquin Valley, the most populated region of the state without a University of California campus, has one of the lowest rates of college participation of all regions in California.

(4) The southern San Joaquin Valley is home to a large population of Chicano and Latino Californians, a group which has been historically underrepresented among the University of California student body.

(5) Siting of a new University of California campus in the San Joaquin Valley would begin to address California's dual needs for an expanded statewide system of higher education and educational equity among the state's many regional communities; and, be it further

Resolved, That the Legislature recognizes that planning for a new University of California campus in the San Joaquin Valley is appropriate and urges the Regents of the University of California to continue with this planning notwithstanding short-term resource constraints.

RESOLUTION CHAPTER 80

Assembly Concurrent Resolution No. 29—Relative to the PolioPlus Program.

[Filed with Secretary of State August 27, 1991]

WHEREAS, In 1985, the World Health Organization (WHO) determined that polio had struck one-half million children annually; and

WHEREAS, In the same year, Rotary International joined the fight against polio through its PolioPlus Program, which was named to reflect the fact that polio was only one of several vaccine-preventable diseases that kill millions of children annually; and

WHEREAS, The PolioPlus Program was established to protect every child in the world against polio and other childhood diseases, a commitment shared by WHO and UNICEF; and

WHEREAS, By May 1988, the same month that the 41st World Health Assembly adopted the goal of global polio eradication by the year 2000, Rotary International announced that it had surpassed its PolioPlus fundraising goal of $120 million by over $100 million; and

WHEREAS, Since then, over $230 million in cash and pledges has been raised through PolioPlus; and

WHEREAS, The fundraising campaign ended in 1988, as of April 1991, over $223 million dollars has already been received, and it is expected that by the conclusion of receiving all pledges made during the campaign, over $245 million dollars will have been received from the voluntary contributions of the Rotarians of the world; and

WHEREAS, Most PolioPlus grants initially provided up to five consecutive years' support for approved national or regional immunization programs, Rotary International has extended its commitment following the success of the fundraising campaign and will now provide vaccines for up to five additional years to nations in economic need and, in some cases, will make grants for equipment to protect the vaccines from heat; and

WHEREAS, In addition to providing funds to purchase the polio vaccine, most PolioPlus grants include a small percentage designated for social-mobilization activities to ensure immunization coverage; and

WHEREAS, As of April 1991, PolioPlus grants have been made to over 100 separate nations to conduct nationwide immunization programs; and

WHEREAS, Often this seed money generates additional in-kind support from local sources, fulfilling an early PolioPlus pledge that in-country Rotarians would enlist private sector resources and expertise to support immunization; and

WHEREAS, Most project countries have national PolioPlus committees of Rotarians who plan social-mobilization activities to fit immediate needs and to assist in efforts to accelerate the Expanded Program on Immunization in these countries; and

WHEREAS, These committees are supported by the staff of Rotary International, regional advisers, and technical staff in Asia, Africa, and South America; and

WHEREAS, Using workshops at national, district, and local levels, the national committees have trained thousands of volunteers, Rotarians, and others; and

WHEREAS, As of November 1990, Rotary International had committed more than $150 million of PolioPlus funds to more than

100 nations to protect 500 million children, and as of that date, over 227 million children had already been immunized; and

WHEREAS, By early 1990, WHO determined that in many countries of the world, no case of polio has been reported during the past year, and that, in many countries, with polio vaccines, immunizations are also being given for measles, tuberculosis, tetanus, whooping cough, and other childhood diseases; and

WHEREAS, As progress continues to be made in the fight against polio, the need to continue telling the PolioPlus story becomes more crucial; and

WHEREAS, The remaining pledges must be collected, as every dollar is needed and the active involvement of Rotarians must continue to immunize every child and eliminate this dreaded disease; and

WHEREAS, Rotary International's PolioPlus Program has received a high magnitude of respect, and has been called "the greatest humanitarian project by a volunteer organization the world has ever known;" and

WHEREAS, The children of the world are counting on us; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That Rotary International is commended for its active involvement and commitment to the eradication of polio through the immunization of every child worldwide; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to Rotary International, the World Health Assembly, the World Health Organization, and UNICEF.

RESOLUTION CHAPTER 81

Assembly Concurrent Resolution No. 1—Relative to the Public Procurement Advisory Committee.

[Filed with Secretary of State September 3, 1991.]

WHEREAS, The State of California has historically been committed to evaluating and enacting cost saving measures in the operation of government; and

WHEREAS, The State of California, the California State University, and the University of California expend in excess of $4 billion annually in procuring goods, services, and construction, exclusive of the indirect costs of procurement personnel, including those of control agencies; and

WHEREAS, Procurement activities continue to grow in complexity and cost; and

WHEREAS, In 1983, the Public Procurement Advisory Committee

was created to study, investigate, and analyze state public procurement of goods, services, and construction in California, including procurement by the California State University and by the University of California, and to submit its recommendations to the Governor and the Legislature; and

WHEREAS, The mandate of the Public Procurement Advisory Committee was extended in 1984, until January 1, 1990, and in 1989, until January 31, 1991, with the provision that in order to effectuate cost savings in the state procurement of goods, services, and construction in California, it was essential that the Governor and the Legislature continue to receive annual recommendations from the Public Procurement Advisory Committee; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That all of the following shall occur:

(1) The Public Procurement Advisory Committee continue its mandate to study, investigate, and analyze state public procurement of goods, services, and construction in California, including procurement by the California State University and by the University of California; and

(2) The Public Procurement Advisory Committee shall be selected from recognized leaders in the procurement community in California. Members of the committee shall serve at the pleasure of the appointing authority. Every effort shall be made to ensure that the ethnic, racial, and gender composition of the advisory committee reflects the population of the State of California and that the committee is representative of the cultural and geographic diversity of the state. Members serving on the committee on January 31, 1991, shall continue to serve on the committee unless the appointing authority determines otherwise. Members of the committee shall consist of the following:

(a) A Member of the Senate.

(b) A Member of the Assembly.

(c) Three committee members designated by the Senate Rules Committee.

(d) Three committee members designated by the Speaker of the Assembly.

(e) Three committee members designated by the Governor.

(f) One committee member designated by the Director of General Services.

(g) One committee member designated by the Director of Transportation.

(h) One committee member designated by the Director of Corrections.

(i) One committee member designated by the Trustees of the California State University.

(j) One committee member designated by the Regents of the University of California.

(3) Members of the Public Procurement Advisory Committee shall serve without compensation.

(4) The members of the Public Procurement Advisory Committee shall be subject to the conflict-of-interest provisions of the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code).

(5) The Public Procurement Advisory Committee shall annually submit its recommendations to the Governor and the Legislature by June 30 of each year. The committee shall terminate on January 31, 1993.

RESOLUTION CHAPTER 82

Assembly Concurrent Resolution No. 57—Relative to the California Commission on African-American Males.

[Filed with Secretary of State September 3, 1991]

WHEREAS, Statistical studies chronicling the status of African-American males in American society reveal startling and disturbing conditions and trends; and

WHEREAS, By every indicia measuring achievement, success, and quality of life in American society, African-American males are facing a prodigious struggle for survival while fighting formidable opponents; and

WHEREAS, African-American males make up only 4 percent of the population of California, but are victims of 31 percent of the states' homicides and comprise 38 percent of the states' prison population; and

WHEREAS, National statistics indicate that one of every 22 African-American males will die as a result of homicide and that one of every six African-American males will be arrested by the age of 19 years; and

WHEREAS, African-American males make up less than 3 percent of California's total college and university enrollment; and

WHEREAS, African-American males suffer from more debilitating health problems, a higher death rate, and a lower life expectancy than males in other ethnic and racial groups; and

WHEREAS, Between the years 1973 and 1988, the average real annual income for African-American males in the United States between the ages of 20-24 years fell by more than 50 percent; and

WHEREAS, There is no statewide repository of data available on the status of African-American males; and

WHEREAS, There should be a study to determine the California dynamics relative to the increasing misfortunes and the social distress affecting African-American males in American society; and

WHEREAS, The results of such a study will recommend what effective measures must be taken or encouraged by the Legislature to help alleviate or relieve some of the underlying causes that

threaten the survival of African-American males; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby establishes the California Commission on the Status of African-American Males; and be it further

Resolved, That the commission shall consist of 15 members, with five members to be appointed by the Speaker of the Assembly, five members to be appointed by the Senate Committee on Rules, and five members to be appointed by the Governor, in accordance with all of the following:

(a) Appointments to the commission shall include, but not be limited to, members of the Assembly and Senate and professionals in the fields of criminal justice, health and social services, education, and religion.

State officers or employees may be appointed to the commission.

(b) The initial appointments to the commission shall be made not later than 90 days after the adoption of this resolution.

(c) Whenever an appointment to the commission is not made within the 90-day period prescribed in paragraph (b), the position shall be filled, on a temporary basis, by a person appointed by a quorum of the commission. A person appointed by a quorum of the commission shall, however, serve only until the appropriate appointing power makes a permanent appointment. For purposes of this paragraph, a quorum of the commission shall constitute eight members, except that none of these eight members shall have been appointed by a quorum of the commission.

(d) The Speaker of the Assembly shall designate a chair for the commission from among the members appointed.

(e) The Senate Committee on Rules shall designate a vice chair for the commission from among the members appointed; and be it further

Resolved, That members of the commission shall serve without compensation.

All expenses of the commission, other than existing Assembly staff and resources provided by the Legislature, shall be reimbursed from private contributions and foundation funds; and be it further

Resolved, That it shall be the duty and responsibility of the commission to do all of the following:

(a) Appoint advisory committees with recognized expertise in the five targeted areas listed in paragraph (b).

(b) Conduct research to determine the nature and extent of the problems concerning African-American males in five targeted areas; unemployment, education, criminal justice, social services, and health.

(c) Hold public hearings for the purpose of collecting data.

(d) Identify existing federal, state, and local programs that address problems and solutions relevant to the targeted areas of study.

(e) Develop community education and public awareness programs especially designed for African-American males.

(f) Develop strategies to improve the social condition of the African-American males.

(g) Solicit funds from the private sector for the purposes of travel reimbursement, staffing, publications, operational expenses, and any and all other expenses related to the commission; and be it further

Resolved, That the commission may meet or consult with any persons as may be able to assist the commission in carrying out its duties; and be it further

Resolved, That the commission shall report its findings and policy recommendations to the Legislature on or before July 31, 1992; and be it further

Resolved, That the commission shall be terminated on January 31, 1993, unless a later adopted concurrent resolution, which is chaptered before that date, deletes or extends the date.

RESOLUTION CHAPTER 83

Senate Concurrent Resolution No. 11—Relative to the Southwest Museum.

[Filed with Secretary of State September 4, 1991]

WHEREAS, The Southwest Museum, designed and built by Charles F. Lummis, an early California legend, remains the oldest museum in the City of Los Angeles, is recognized as one of the centerpieces of northeast Los Angeles, and has been identified as the "cultural anchor" of the Mount Washington-Highland Park area; and

WHEREAS, The Board of Trustees of the Southwest Museum, home to one of our nation's finest collections of Native American artifacts, has announced that it is seeking proposals for a new site and the decision to move was made without notifying the membership or the surrounding community; and

WHEREAS, Many organizations and concerned individuals have joined together to form "Save Our Southwest Museum" to oppose the move of the Southwest Museum; including, the Los Angeles Conservancy, the Mount Washington Association, the Highland Park Neighborhood Association, the Eagle Rock Association, the Highland Park Heritage Trust, the Lincoln Heights Preservation Association, the Eagle Rock and Highland Park Chambers of Commerce, the Pasadena Heritage, the Altadena Historic Association, the Arroyo Arts Collective, Art in the Park, the Eagle Rock Historical Association, the Highland Park Ministerial Association, the Lincoln Heights Kiwanis, the Northeast Action Committee, the Northeast Democratic Club, and Occidental College; and

WHEREAS, The Southwest Museum is an historic treasure; the

building itself, renowned for its architecture, is as significant a part of history as are the collections of American Indian art and artifacts it displays; the museum serves over 25,000 school children free of charge; and the collection of the museum represents the cultural legacy of the people who live in the area; and

WHEREAS, The Southwest Museum has received state funding in the form of grants and it is important to the state to affirm the importance of maintaining the Southwest Museum in its current historic location; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California joins with the community of Los Angeles in urging that the Southwest Museum be kept in its current location in order to historically preserve the oldest museum in the City of Los Angeles; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Board of Trustees of the Southwest Museum.

RESOLUTION CHAPTER 84

Senate Concurrent Resolution No. 19—Relative to high school sports injuries.

[Filed with Secretary of State September 4, 1991.]

WHEREAS, Several hundred thousand children and young adults participate in high school athletics of all types, including football, track and field, soccer, wrestling, baseball, and basketball; and

WHEREAS, There are thousands of injuries to these athletes each year; and

WHEREAS, There are no uniform reporting standards and no statistics kept by any of the educational institutions regarding the number of injuries, types of injuries, and causes of injuries; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That all persons involved in high school athletics in this state should make every effort to prevent injuries to participants; and be it further

Resolved, That the State Department of Education, in order to fully understand the scope of the problem, is requested to develop a reporting form to be utilized by a representative sampling from 20 percent of all high schools in order for the department to compile and submit to the Legislature a report for three consecutive school years regarding the types, causes, and number of injuries, including reinjuries, in high school athletics, so that the department can identify areas that need special attention; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this

resolution to the Superintendent of Public Instruction.

RESOLUTION CHAPTER 85

Senate Joint Resolution No. 21—Relative to the California Army National Guard.

[Filed with Secretary of State September 4, 1991.]

WHEREAS, The Department of the Army has announced a reduction in the size of the reserve forces, including the National Guard; and

WHEREAS, The California Army National Guard would be required to reduce in size by 32 percent, a loss of about 7,000 soldier positions; and

WHEREAS, The California Army National Guard is the sole and irreplaceable military force legally available and equipped to respond immediately to natural disasters and other emergencies at the direction of the Governor; and

WHEREAS, The planned reduction will drastically and dangerously impair the capability of the state to respond quickly to the large numbers of emergencies which occur annually in California and the constant potential for wildfires, floods, and earthquakes of catastrophic proportion; and

WHEREAS, The State of California is projected to dramatically increase in population in the next decade, increasing the potential magnitude of human risk from natural disaster; and

WHEREAS, The state supports the reduction of the federal Armed Forces and of the costs to maintain them in time of peace; and

WHEREAS, Reserve forces can be maintained in peacetime at about one-third the cost of active duty forces, and can be maintained combat ready and deployable on short notice as demonstrated in Operation Desert Storm; and

WHEREAS, The citizens of the State of California object to a reduction in the California Army National Guard force structure; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature and the citizens of the State of California strongly urge the President of the United States, the Secretary of Defense, the Secretary of the Army, and the Congress of the United States to direct that the authorized strength of the force structure of the California Army National Guard shall not be reduced; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States,

to the Secretary of Defense of the United States, and to the Governor and the Adjutant General of the State of California.

RESOLUTION CHAPTER 86

Assembly Concurrent Resolution No. 25—Relative to parks and recreation.

[Filed with Secretary of State September 6, 1991.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Parks and Recreation is requested to update its February 1982 Jepson Prairie Project Investigation Report, and to submit the update to the Legislature not later than June 30, 1992; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Parks and Recreation.

RESOLUTION CHAPTER 87

Assembly Concurrent Resolution No. 31—Relative to a freshwater pipeline.

[Filed with Secretary of State September 6, 1991.]

WHEREAS, The shortage of water in this state has become an increasingly serious emergency situation for the citizens, businesses, and agricultural interests within the state; and

WHEREAS, Fresh river water from the entire western slope of the North American Continent presently is flowing into the Pacific Ocean, thereby wasting a valuable natural source of freshwater; and

WHEREAS, The Governor of the State of Alaska, the Honorable Walter J. Hickel, has publicly announced his interest in sharing that state's immense, renewable surplus of freshwater by making that resource available to western states; and

WHEREAS, It is in the best interests of this state's growing state population and important industrial and agricultural concerns to divert a portion of that surplus water supply to areas experiencing severe water shortages; and

WHEREAS, Modern technology and engineering capabilities make it technologically feasible to construct a freshwater pipeline along the coastal waters extending from Alaska to California; and

WHEREAS, In planning, designing, and constructing a North American water pipeline, consideration should be given to using the demonstrated expertise of federal laboratories and technology transfer programs that are exemplified by the work performed at the

National Aeronautics and Space Administration Ames Research Center at Moffett Field, California; and

WHEREAS, An interstate compact agreement between Alaska and California could be executed to provide for the necessary planning, financing, and construction of large, submerged floating conduit pipes that are either anchored to, or rest on, the Continental Shelf and capable of bringing surplus water to this state; and

WHEREAS, The freshwater pipeline could be constructed to avoid interference with the navigation of commercial and noncommercial vessels and to mitigate the effects of ocean currents; and

WHEREAS, The significant density differences between freshwater to be transported in the pipeline and the surrounding seawater would provide sufficient buoyancy to limit construction support requirements to composite cable anchoring for containment; and

WHEREAS, At selected underwater pumping sites, waterflow could be maintained and new water supplies could be added from intake areas drawing upon freshwater from Alaskan rivers otherwise flowing into the Pacific Ocean; and

WHEREAS, Pumping sites could also direct freshwater flows to designated onshore areas to meet local water needs; and

WHEREAS, The southward flow in the pipeline would be enhanced in its long journey by the Coriolis effect of the Earth's rotation, thereby reducing mechanical pumping requirements; and

WHEREAS, A water pipeline route beneath the ocean's surface could effectively eliminate the need to acquire costly rights-of-way, the digging of tunnels, and pumping water over mountain ranges, while at the same time reducing the potential impact of earthquakes and losses of water due to evaporation; and

WHEREAS, The use of reinforced composite pipe section can greatly reduce the costs of the project and ensure long-term reliability, thereby making the construction of the project the most practical and cost-effective solution to the state's current and future water needs; and

WHEREAS, House Joint Resolution 186 was introduced in the first session of the 102nd Congress to require President Bush to conduct an initial feasibility study relating to a suboceanic freshwater pipeline between Alaska and California and to submit that study to Congress; and

WHEREAS, House Resolution 1600 was also introduced in the first session of the 102nd Congress to require the Secretary of the Interior, acting through the Bureau of Reclamation, to conduct an initial feasibility study, with federal funding appropriated for that purpose, relating to the construction of a pipeline from Alaska to California and other western and southwestern states facing water shortages; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Governor is hereby requested to work in cooperation with Governor Walter J. Hickel of Alaska in

supporting federal efforts to explore the feasibility of constructing an Alaska-California suboceanic freshwater pipeline; and be it further

Resolved, by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact House Joint Resolution 186 and House Resolution 1600, which require feasibility studies relating to the construction of a freshwater pipeline between Alaska and California; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor, to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 88

Assembly Concurrent Resolution No. 32—Relative to emergency medical services.

[Filed with Secretary of State September 6, 1991.]

WHEREAS, A competent adult has a constitutional right to life and to determine the course of his or her own health care, including, but not limited to, the right to refuse medical treatment; and

WHEREAS, The state has an interest in protecting an individual's right to life and also in protecting an individual's right to refuse medical treatment; and

WHEREAS, The use of "Do Not Resuscitate" and "Do Not Intubate" authorization forms for standing medical orders in outpatient settings by prehospital emergency medical care personnel is a current practice, which varies in form and content from one locality to another throughout the state; and

WHEREAS, These issues are of major consequence, and it is imperative that they be fully addressed and clearly articulated so as to optimize the state's interest in fully protecting the right to life while fully protecting individual liberties, including, but not limited to, the right to refuse medical treatment; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature urges the Emergency Medical Services Authority to evaluate, in consultation with medical directors of local EMS agencies, the need for statewide uniformity in the structure and content of these "Do Not Resuscitate" and "Do Not Intubate" authorizations for use in outpatient settings by prehospital emergency medical care personnel; and be it further

Resolved, That the Legislature urges the Emergency Medical Services Authority report by June 1, 1992, to the Legislature the

results of its evaluation, including, but not limited to, its recommendations for implementing legislation, if necessary, and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Emergency Medical Services Authority.

RESOLUTION CHAPTER 89

Assembly Concurrent Resolution No. 38—Relative to children of incarcerated parents.

[Filed with Secretary of State September 6, 1991.]

WHEREAS, In the State of California there are in excess of 200,000 minor children of state and federal prison and county jail inmates; and

WHEREAS, Children of incarcerated parents experience desertion, ridicule, isolation, and guilt associated with parental absence; and

WHEREAS, Children of incarcerated parents suffer from economic and educational deprivation through no fault of their own, resulting in a sense of low self-worth and esteem, which has been shown to be a major factor in adult behavior leading to conviction and incarceration in prison or jail; and

WHEREAS, There is an established relationship between a strong and nurturing environment during childhood and behavior and good citizenship in adult life; and

WHEREAS, Children of incarcerated parents are at a higher risk of adult deviant behavior than other children; and

WHEREAS, A comprehensive study of the special problems associated with being the child of an incarcerated person has never been done; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the State of California finds that children of incarcerated parents are at a high degree of risk and that an investment of early intervention and services will result in the long-term reduction in California's inmate population; and be it further

Resolved, That the State of California finds that the at-risk population of children of incarcerated parents requires the special consideration of each state agency and department in planning and development of programs serving children such as child welfare, public assistance, mental health, medical, and educational programs; and be it further

Resolved, That the Assembly Office of Research shall conduct a comprehensive study of the problems faced by and associated with children of incarcerated parents, including wards of the Department

of the Youth Authority whose parent or parents are state prison inmates, and shall report its findings and conclusions no later than July 1, 1992, to the Legislature; and be it further

Resolved, That the comprehensive study shall include outreach to public and private nonprofit community organizations that serve families and children of incarcerated parents; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Superintendent of Public Instruction, Secretary of the Youth and Adult Correctional Agency, Secretary of Health and Welfare, and Secretary of Child Development and Education.

RESOLUTION CHAPTER 90

Assembly Concurrent Resolution No. 43—Relative to expanding educational opportunities to nontraditional students.

[Filed with Secretary of State September 6, 1991]

WHEREAS, The American economy has shifted and is continuing to shift from a manufacturing-driven economy toward an information-driven economy, with many of the changes occurring first in California; and

WHEREAS, The American economy is increasingly part of the world economy, with its shift toward Asia and the Pacific Rim, making California the "gateway to the Pacific"; and

WHEREAS, Changes in the American economy have made it increasingly necessary to obtain a level of education beyond high school in order to gain and maintain employment and to advance to levels of higher responsibility, a trend that is expected to continue well into the next century; and

WHEREAS, These same changes in the nature of business and the economy will require workers to change jobs several times during the course of their working lifetime; and

WHEREAS, California is experiencing a rapid growth in its population, and changes in its demographic makeup, including growth in racial, ethnic, and language diversity; and

WHEREAS, The current and projected growth in California will not be proportionate by age group, but will reflect greater growth in the numbers of children and seniors; and

WHEREAS, This will produce a corresponding drop in the percentage of the population who are in their prime working years, a situation made more critical by the fact that many adults will not have the skills to be productive members of the work force; and

WHEREAS, Nontraditional students—who are older or are working, many with children and family responsibilities—cannot now fully avail themselves to the three branches of higher education because of a lack of courses offered during nonworking hours; and

WHEREAS, The Joint Committee for Review of the Master Plan for Higher Education has recommended that the University of California and the California State University incorporate into their mission statements a specific commitment to integrating older part-time students, and has recommended that those institutions make organizational changes necessary to fulfill that commitment, and the committee noted that "one of the clearest barriers to students' progression is the 'full time' nature of education at the University of California and, to a lesser degree, the California State University"; and

WHEREAS, Public education is the foundation of American democracy and has historically served as the ladder of economic mobility for those persons seeking a better life for themselves and their families; and

WHEREAS, The Legislature recognizes that the California Community Colleges, with their open access and transfer arrangements with the California State University and the University of California, currently provide the primary entry point for nontraditional students; and

WHEREAS, The increase in tuition and other costs associated with attending the University of California or the California State University is resulting in increased demands on the community colleges, which are also facing increased demands as a result of budget cuts in adult education programs conducted by school districts while operating under a state-mandated limitation on enrollment growth; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the University of California, the California State University, and the California Community Colleges are requested to respond to the needs of the changing California economy and the changing California population by offering more evening and weekend courses, by admitting more nontraditional students, and by finding ways to meet the needs of adults who work outside the home and raise a family; and be it further

Resolved, That the Legislature is requested to examine ways in which to provide the necessary resources for nontraditional students, particularly so that they may avail themselves of courses relating to job training or enhancement of job-related skills and programs in English as a second language, and that these programs not be disproportionately affected during times of fiscal constraint; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Regents of the University of California, the Trustees of the California State University, and the Board of Governors of the California Community Colleges.

RESOLUTION CHAPTER 91

Assembly Concurrent Resolution No. 65—Relative to California's Job Training Partnership Week.

[Filed with Secretary of State September 6, 1991.]

WHEREAS, Federal legislation was passed in 1982 to establish a private-public sector partnership through the adoption of the Job Training Partnership Act for the purpose of designing and providing job training programs to address community needs for a trained labor force; and

WHEREAS, The Private Industry Councils (PICs) bring a business-like approach to job training and have developed strong local partnerships for leveraging resources, coordinating services, and implementing successful job training programs for the economically disadvantaged, long-term unemployed, and other at-risk groups who otherwise would not have an opportunity to achieve economic independence; and

WHEREAS, The PICs' service providers, the community-based organizations, local education agencies, and other local organizations have contributed to the successful delivery of job training services to thousands of Californians; and

WHEREAS, Over 300,000 graduates of the PIC Job Training Partnership Act program have successfully been placed in jobs since the act's implementation; they now enjoy the benefits and security that a job provides and are gainful contributors to the state's economy; and

WHEREAS, The successes of the Job Training Partnership alumni reflect the success of this partnership and they are the best advocates for the program; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the California State Legislature hereby joins in with the other states of the nation in recognizing and celebrating the success of the Private Industry Councils' Job Training Partnership Act programs, and, by way of this resolution, proclaims the week of August 26 through September 2, 1991, as California's Job Training Partnership Week.

RESOLUTION CHAPTER 92

Assembly Joint Resolution No. 10—Relative to Reproductive Rights.

[Filed with Secretary of State September 6, 1991.]

WHEREAS, Abortion is a legal medical service related to pregnancy and the choice to elect an abortion is a personal, private right protected by the United States Constitution and California Constitution; and

WHEREAS, The federal government provides assistance for pregnancy-related care for substantial numbers of women under a variety of federal programs, including the medicaid program, the Indian Health Care Program, the Federal Employees' Health Benefits Program, the program of health care for military dependents and retirees, the Peace Corps program, general payments to the District of Columbia, and the program of medical services to federal penal and correctional institutions; and

WHEREAS, Pregnant women who otherwise are provided pregnancy-related care under these programs have been denied equal access to health care services due to Congress' severe and unjustified restrictions on their freedom to choose services that relate to abortion; and

WHEREAS, Denial of access to health care services because those services relate to abortion is unjust and unfair to pregnant women who are or whose spouses are employed by the federal government or who otherwise are dependent on the federal government for health care, and threatens their health and well-being and that of their families; and

WHEREAS, Denial of abortion services to pregnant women who rely on the federal government for health care creates a two-tiered health care system where poor women are unable to afford a privately funded abortion and women with more resources are able to finance a private abortion; and

WHEREAS, Medicaid recipients, Native American women, Peace Corps volunteers, federal employees and their dependents, military personnel and their dependents, and women in federal prisons are often unable to afford a privately funded abortion; and in the case of women in federal prisons, they are unable to leave prison to obtain abortion services; and

WHEREAS, It is incumbent upon the Legislature of the State of California to request that Congress ensure that all women in our society have an equal opportunity to protect their reproductive health and to exercise their constitutional right to choose whether to terminate a pregnancy; and

WHEREAS, There are two bills advancing in Congress that are each known as the Reproductive Health Equity Act, and that are designed to restore access to abortion services for women who are dependent on the federal government for their health care; and

WHEREAS, The Reproductive Health Equity Act would require the federal government to provide abortion services to women who receive Medicaid, Native American women, Peace Corps volunteers, federal employees and their dependents, military personnel and their dependents, and women in federal prisons; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to enact the Reproductive Health Equity Act to ensure that all women in our society have an equal opportunity to make reproductive health decisions; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 93

Assembly Joint Resolution No. 34—Relative to first-time home buyers and tax deferred savings for down payments.

[Filed with Secretary of State September 6, 1991]

WHEREAS, In California, between 1980 and 1991 the median sales price of a single-family home has escalated dramatically; and

WHEREAS, In California, the percentage of people who can afford a first home has declined dramatically; and

WHEREAS, In California, the average down payment for a home for a first-time buyer has significantly risen, presenting an insurmountable goal for many Californians; and

WHEREAS, The dream of home ownership is fading for many Californians and others across the United States; and

WHEREAS, The Legislature of the State of California and the United States Congress have shown the willingness and desire to help make home ownership attainable to those who seek to achieve it; and

WHEREAS, A special type of savings account to encourage and assist individuals and families to accumulate funds for a down payment on the purchase of a first home, either in the form of an Individual Housing Account (IHA) or an existing Individual Retirement Account (IRA), which would provide either a federal tax deduction or credit for the amount deposited, with interest accumulating tax free, would greatly enhance the opportunity for greater home ownership; and

WHEREAS, The law already permits a broad range of investment vehicles for IRA's and other similar accounts, and to most Americans, a house is their most significant, costly, and valuable investment; and

WHEREAS, The Legislature of the State of California finds and declares that assisting those Californians who desire home ownership is both sensible and fair; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California,

jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation that will provide tax incentives for individuals who save for a down payment on the purchase of a first home; and be it further

Resolved, That the Congress create a new Individual Housing Account to allow individuals to save funds for the purchase of a first home, the amounts deposited to be deductible, and the income therein to accumulate tax free; and be it further

Resolved, That the Congress modify Individual Retirement Accounts to allow their funds to be used for a down payment on the purchase of a first home; and be it further

Resolved, That the Congress enact these savings incentives for the benefit of low- and middle-income first-time home buyers, and not for purposes of home refinancing or for other purchases of residential real estate; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 94

Assembly Joint Resolution No. 47—Relative to the Baltic Republics.

[Filed with Secretary of State September 6, 1991]

WHEREAS, The United States has never acknowledged the incorporation of the Baltic republics into the Soviet Union due to the illegal nature of the Molotov-Ribbentrop agreement of August 23, 1939, and the subsequent hostile acquisition of land thereof; and

WHEREAS, The peoples of Lithuania, Latvia, and Estonia have individually, and collectively, resisted the Communist domination of their homelands in the name of independence and democracy throughout 52 years of Soviet rule; and

WHEREAS, These republics have maintained their own individual religions, languages, traditions, and literature throughout the Soviet occupation; and

WHEREAS, These republics opposed the illegal coup attempt against Mikhail Gorbachev in August of 1991; and

WHEREAS, These republics have been long-time supporters of democracy and independence; and

WHEREAS, These nations have declared independence from the Soviet Union; now, therefore, be it

Resolved by the Assembly and Senate of the State of California,

jointly, That the Legislature of the State of California supports Lithuania, Latvia, and Estonia in their struggle for independence from the Soviet occupation, and that the Legislature of the State of California respectfully memorializes the President and Congress of the United States of America to act immediately to extend full diplomatic recognition to the freely elected Baltic governments of Lithuania, Latvia, and Estonia; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 95

Assembly Joint Resolution No. 26—Relative to outdoor advertising.

[Filed with Secretary of State September 9, 1991.]

WHEREAS, Pursuant to Section 101 of the Highway Beautification Act of 1965 (23 U.S.C. Sec. 131) and Section 5419 (former Section 5288.5c) of the Business and Professions Code, a provision of the Outdoor Advertising Act, the Director of Transportation (formerly the Director of Public Works) and the Administrator of the Federal Highway Administration, on February 15, 1968, entered into an agreement to define and approve the size, spacing, and lighting of outdoor advertising displays located in areas zoned commercial or industrial; and

WHEREAS, That agreement did not approve advertising displays which have changeable messages which can be changed by electronic processes or by remote control, except those with messages advertising only activities occurring on the property upon which the display is located; and

WHEREAS, The state, and counties and cities, desire the authority to regulate the erection of off-premises changeable message signs, known as message center displays, as a means of providing economic and other benefits to the state and counties and cities; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the President and Congress are respectfully memorialized to direct the Administrator of the Federal Highway Administration to meet with the Director of Transportation of the State of California to amend the agreement entered into on February 15, 1968, pursuant to Section 101 of the Highway Beautification Act of 1965 and former Section 5288.5c, now Section 5419, of the Business and Professions Code, a provision of the Outdoor Advertising Act, to permit the state, and counties and cities,

to regulate off-premises changeable message signs, known as message center displays, in accordance with the Outdoor Advertising Act; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Director of Transportation.

RESOLUTION CHAPTER 96

Assembly Concurrent Resolution No. 47—Relative to free trade.

[Filed with Secretary of State September 9, 1991.]

WHEREAS, The United States, Mexico, and Canada will soon enter negotiations on a history-making comprehensive free trade agreement, with implementation of the agreement as early as 1993; and

WHEREAS, The Republic of Mexico is California's second largest export market, with two-way trade estimated at over $8 billion for 1990; and

WHEREAS, The Dominion of Canada has already signed a bilateral free trade agreement with the United States; and

WHEREAS, The North American Free Trade Zone would have a combined output of $6.6 trillion, which would be 25 percent greater than the European Community; and

WHEREAS, California's agricultural and allied industries account for approximately $72 billion of the state's economic output; and

WHEREAS, California farms and orchards provide a major percentage of the total domestic fruit and vegetable production for the nation; and

WHEREAS, Approximately one in six jobs in California are related to agriculture; and

WHEREAS, Some sectors of California's agricultural industry will face a tremendous challenge from the proposed free trade agreement, with increased competition from Mexican produce, while other sectors will see increased opportunity for export; and

WHEREAS, Strategic planning and preparation for operating in the free trade environment are essential for the continued success of California's agricultural industry; and

WHEREAS, With the tremendous stake California's agricultural industry has in the free trade negotiations, it is essential that all sectors of the industry, including processors and laborers, be fairly represented and have a channel to voice their concerns; and

WHEREAS, The California State World Trade Commission and the Agricultural Export Program of the Department of Food and

Agriculture represent the state in matters of international trade; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the California State World Trade Commission and the Agricultural Export Program of the Department of Food and Agriculture shall provide forums for all interested parties in the state before expressing their position on issues related to the free trade agreement to the United States Trade Representative; and be it further

Resolved, That the California State World Trade Commission and the Agricultural Export Program of the Department of Food and Agriculture, in conjunction with entities in both the public and private sectors, identify plans and strategies for quickly taking advantage of opportunities presented by the passage of the agreement, and also for facing the increased competition expected from Mexican produce; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the California State World Trade Commission and the Department of Food and Agriculture.

RESOLUTION CHAPTER 97

Assembly Concurrent Resolution No. 17—Relative to Red Ribbon Week.

[Filed with Secretary of State September 12, 1991.]

WHEREAS, Californians for Drug Free Youth, Inc., a statewide parent-community organization, the Department of Alcohol and Drug Programs, the State Department of Education, the California Parent Teacher Association, and the Attorney General's Crime Prevention Center are cosponsoring October 19 through October 27, 1991, as "Red Ribbon Week"; and

WHEREAS, Business, government, law enforcement, schools, religious institutions, service organizations, youth, senior citizens, medical and military personnel, sports teams, and individuals throughout the State of California will demonstrate their commitment to drug-free, healthy lifestyles by wearing and displaying red ribbons during this week-long campaign; and

WHEREAS, The Assembly has further committed its resources to ensure the success of the Red Ribbon campaign; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the California Legislature does hereby support the Red Ribbon campaign by proclaiming October 19 through October 27, 1991, as "Red Ribbon Week," and by encouraging the citizens of California to help build drug-free

communities and to participate in drug prevention activities by making a visible statement that we are firmly committed to a drug-free life; and be it further

Resolved, That the California Legislature encourages all citizens to personally pledge, "MY CHOICE, DRUG-FREE!"; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Governor of the State of California.

RESOLUTION CHAPTER 98

Assembly Concurrent Resolution No. 30—Relative to reconvening the California AIDS Leadership Committee.

[Filed with Secretary of State September 12, 1991.]

WHEREAS, The Human Immunodeficiency Virus (HIV) has come to be acknowledged as one of the worst infectious disease epidemics of all time; and

WHEREAS, California has consistently accounted for over 20 percent of all AIDS cases reported in the United States; and

WHEREAS, As a state, California has been in the forefront of efforts to respond to the epidemic, accomplishing a great deal in a relatively short time; and

WHEREAS, The California AIDS Leadership Committee (CALC) prepared a July 1989 report entitled, "California's Continuing Response to HIV Disease—A Strategic Plan," which specifies a strategic plan for the state to further address the substantial needs and problems created by the unique and, to many, terrifying epidemic of HIV disease; and

WHEREAS, The plan builds upon previous activities and focuses especially on what needs to be done in the next three years; and

WHEREAS, It is the product of the combined efforts of representatives of local and state government agencies, professional associations, private entities, community-based organizations, academia, and interested individuals, as coalesced under the aegis of the CALC; and

WHEREAS, The CALC comprised many of the most knowledgeable persons in the areas which have been directly affected by the HIV epidemic; and

WHEREAS, The CALC, in developing this document, reaffirmed that in addressing the HIV epidemic, as with any infectious disease epidemic, society's primary responsibility is to protect the uninfected, as well as to treat the ill; and

WHEREAS, These goals should be accomplished in an atmosphere that is as minimally socially disruptive and as maximally effective as possible; and

WHEREAS, Toward these ends, the fundamental goal of this plan

is the coordination of efforts at the local level to prevent HIV infection and to provide treatment for persons with HIV disease; and

WHEREAS, Accomplishment of this goal requires that California as a whole address many difficult and controversial issues; and

WHEREAS, At present, prevention of HIV disease in the uninfected must be based on either the reinforcement or the modification of individual behavior, which can best result from education; and

WHEREAS, The "vaccine" for HIV disease is prevention education; and

WHEREAS, We know that education has been effective in controlling the epidemic in California; and

WHEREAS, Education must be culturally sensitive and, at the same time, frank and easily understandable by the diverse populations sought to be reached; and

WHEREAS, Prevention also involves the education of those persons already infected in order to minimize the risk that these persons will spread the disease; and

WHEREAS, Essential to this end is testing for HIV antibodies to identify infected persons, especially those at higher risk of infection; and

WHEREAS, Success in these efforts requires that steps be taken to avoid pushing "underground" those most at risk for contracting the infection and, thereby, losing the opportunity to prevent spread of the infection by education; and

WHEREAS, Continued availability of anonymous and confidential testing for HIV infection, maintenance of the confidentiality of test results, and avoidance of discrimination against persons found to be infected remain the most significant steps that society can take to ensure participation with HIV disease control activities; and

WHEREAS, The CALC's report is one further step in the evolution of California's response to the growing problems resulting from the HIV epidemic; and

WHEREAS, The report contains 12 priority recommendations and numerous more specific action steps that, if completed, will help coordinate and advance the efforts of public and private entities in preventative education, disease surveillance, delivery of health care and social services, and research; and

WHEREAS, These efforts require the marshalling of many assets—financial, intellectual, and cultural—if the problems arising from the HIV epidemic are to be successfully addressed; and

WHEREAS, The advantages of responding to this highly fatal, communicable disease now, instead of later, must be recognized and acted upon; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the State Department of Health Services is requested to reconvene the California AIDS Leadership Committee; and be it further

Resolved, That the California AIDS Leadership Committee review

the July 1989 report, "California's Continuing Response to HIV Disease—A Strategic Plan," prioritize the recommendations of this report, in consultation with the appropriate community-based organizations, as determined by the committee, budget the items in order of priority, and present the results to the Legislature and Governor in the form of an implementation plan.

RESOLUTION CHAPTER 99

Assembly Joint Resolution No. 33—Relative to employment in connection with the reconstruction of Kuwait.

[Filed with Secretary of State September 12, 1991.]

WHEREAS, The Persian Gulf War has been brought to a swift and successful resolution by United States and Allied Forces who served with honor and distinction; and

WHEREAS, Iraq's seven-month occupation of Kuwait has left Kuwait physically devastated and will require extensive reconstruction of oil-producing facilities, government buildings, and other public and private facilities; and

WHEREAS, The United States government will play a significant role in the rebuilding effort, and American construction and engineering firms and equipment companies will benefit by being awarded a large portion of the reconstruction contracts that will be worth millions of dollars; and

WHEREAS, A significant portion of the United States military personnel involved in the Persian Gulf War were minorities and women; and

WHEREAS, The California Legislature believes that the contribution made by minority and female military personnel in the Persian Gulf War should be recognized as a part of the reconstruction effort; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the California Legislature encourages the United States government and all American companies participating in the reconstruction of Kuwait to adopt and implement as an employment goal the hiring of minority and female workers in proportion to the ethnic and gender composition of the American military personnel who served in the Persian Gulf War; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 100

Assembly Concurrent Resolution No. 45—Relative to teacher training.

[Filed with Secretary of State September 12, 1991.]

WHEREAS, Public education is the foundation of American democracy and has historically served as the ladder of economic mobility for those seeking a better life for themselves and their families; and

WHEREAS, Those persons entering the teaching profession will, along with parents, play a major role in the preparation and education of the next generation; and

WHEREAS, Most new teachers will enter classrooms with student bodies much different in background, characteristics, preparation, and ongoing support from those they may have experienced as students; and

WHEREAS, The new student body reflects trends in the larger society, including changing family structures, growing ethnic, racial, and language diversity, and increasing work-family conflicts for parents, which are characterized by a reduction in the amount of time parents have to spend with their children; and

WHEREAS, The Legislature has recognized and continues to recognize the importance of the family, declaring February 1991 as California Family Month, and in 1987 creating the Joint Select Task Force on the Changing Family; and

WHEREAS, The Legislature has recognized the importance of parent involvement in the education of their children, including the importance of parental involvement in public schools, by enacting Assembly Bill 322 of the 1989–90 Regular Session, to require school districts to establish a formal plan on how to encourage parental involvement in the schools; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature requests all public and private institutions of higher education that have an approved teacher preparation program to include in their teacher training programs instruction on encouraging and fostering parent participation within the teaching profession; and be it further

Resolved, That the Legislature requests the Commission on Teacher Credentialing to include components related to parental involvement and multicultural sensitivity in its teacher certification process; and be it further

Resolved, That the Legislature requests local school districts, when developing plans on how to encourage and increase parental involvement, to consider the use of available staff development funds to educate teachers on the importance of, and techniques on how to successfully increase the quality and quantity of, parental involvement in the schools.

RESOLUTION CHAPTER 101

Assembly Concurrent Resolution No. 27—Relative to rail transportation.

[Filed with Secretary of State September 16, 1991]

WHEREAS, The Clean Air and Transportation Improvement Act of 1990, approved by the voters in June 1990, includes five million dollars ($5,000,000) to be allocated to the Department of Transportation for preliminary engineering and feasibility studies of a high-speed passenger rail link between Bakersfield and Los Angeles; and

WHEREAS, The purpose of this rail link is to provide a modern rail line connecting with existing rail lines at Bakersfield and Saugus; and

WHEREAS, The proposed new rail link should be designed and engineered to high standards; and

WHEREAS, Existing high-speed passenger trains in commercial operation in Europe are able to traverse grades of up to 5 percent; and

WHEREAS, It appears possible to entirely or largely avoid the need to construct tunnels through the Grapevine mountain area if an alignment with such grades is selected, thereby reducing construction costs as well as risks from earth movement in this earthquake-prone region; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Transportation is hereby requested to consider all of the following in proceeding with the work authorized by subdivision (b) of Section 99622 of the Public Utilities Code:

(1) An alignment which incorporates grades up to the attainable maximum for high-speed rail passenger service while minimizing tunneling should be selected, unless it is determined that another alternative would be more cost-effective to construct, with preliminary engineering work conducted in such a manner as would allow the selected alignment to accommodate high-speed rail technologies, including advanced technologies.

(2) The rail link should be designed to accommodate high-speed passenger trains, with freight carriage limited to parcels and other lightweight freight carried by the new high-speed rail lines in Europe and Japan.

(3) The line should be engineered to be double-track, or the equivalent thereof, and electrified, able to accommodate trains with a speed of up to 200 miles per hour, where not otherwise restricted by grades or curves.

(4) The new line shall be designed to connect with existing and planned rail systems.

(5) The engineering and study work authorized should be completed in 12 months of the allocation of funds to the department

by the commission; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 102

Senate Concurrent Resolution No. 7—Relative to the University of California.

[Filed with Secretary of State September 16, 1991.]

WHEREAS, The Public Employees' Medical and Hospital Care Act authorizes any annuitant thereunder whose retirement allowance is not sufficient to pay his or her contributions for health benefits to retain coverage by paying a complementary annuitant premium quarterly in advance to the Board of Administration of the Public Employees' Retirement System for the balance of the contributions plus the related administrative costs; and

WHEREAS, The Legislature finds that annuitants of the University of California Retirement System deserve to be accorded rights substantially similar to those accorded to annuitants under the Public Employees' Medical and Hospital Care Act; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Regents of the University of California are requested to provide that:

(1) Any member of the University of California Retirement System who retires with at least 10 years of service credit and who elects at the time of retirement to continue fee-for-service health plan coverage as an annuitant, and whose monthly retirement annuity subsequently becomes insufficient to cover the annuitant's share of the premium for that plan, may retain coverage in that plan by paying to the Regents of the University of California the balance of that premium share plus the related administrative costs.

(2) Any member of the University of California Retirement System who retires with between five and 10 years of service credit and who elects at the time of retirement to continue fee-for-service health plan coverage as an annuitant, and whose monthly retirement annuity subsequently becomes insufficient to cover the annuitant's share of the premium for that plan, may, so long as the annuitant is domiciled outside of California, retain coverage in that plan by paying to the Regents of the University of California the balance of that premium share plus the related administrative costs.

(3) Nothing in paragraphs (1) and (2) is intended to restrict the university's ability to modify periodically the range of health plans which it offers to its annuitants, or intended to require that any particular health plan be offered in perpetuity to its annuitants; and

be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Regents of the University of California.

RESOLUTION CHAPTER 103

Senate Concurrent Resolution No. 21—Relative to housing for elderly persons.

[Filed with Secretary of State September 16, 1991.]

WHEREAS, Enacted during the 1960's, the National Housing Act has resulted in the building of nearly 1,500,000 units of housing for elderly persons across the nation; and

WHEREAS, Federal and state programs have built approximately 150,000 units of subsidized housing for the elderly in California; and

WHEREAS, Little thought has been given to the consequences of distinct types of living arrangements which house elderly persons in a congregate setting; and

WHEREAS, There has been a lack of planning for this emerging industry, as well as for the phenomenon of an "aging in place" elderly population; and

WHEREAS, There is a lack of direction in terms of public policy objectives to assist a burgeoning industry in coming to terms with how to house and serve a growing and more frail elderly population; and

WHEREAS, This emerging industry, known as senior housing, has developed without standards and is currently reliant on general landlord-tenant laws which do not address the unique nature of these housing situations; and

WHEREAS, A growing number of elderly persons residing in these housing projects are experiencing increased frailty and are in need of services to assist them to function independently; and

WHEREAS, Without proper planning, the elderly persons living in senior housing are at risk of being "forgotten," and these projects could become the future warehouses of older persons; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Senate Office of Research, in consultation with the Assembly Office of Research, shall conduct a study in two phases. Phase one of the study shall include all of the following activities:

(1) Identification of the scope and magnitude of what constitutes senior housing in California, including authorizing statutes and those statutes which are inconsistent with the current developmental trends.

(2) The development of a general resident profile, including a

demographic profile of senior housing residents, demographic trends in the senior housing population, and a review of the social, health, and support needs of these residents.

(3) Identification of the extent of health and social services provided or arranged by senior housing programs and of the extent of limitations in the ability of senior housing to provide, or arrange for, services.

(4) A comparison of the types of services provided, or arranged for, by senior housing facilities with those provided, or arranged for, by residential care and congregate housing facilities, as well as the standards by which those services are provided; and be it further

Resolved, That phase one of the study shall be conducted only to the extent senior housing data is available. The Senate Office of Research shall complete phase one of the study, and shall report its findings, in writing, to the Senate Committee on Rules, on or before September 1, 1992; and be it further

Resolved, That phase two of the study, to the extent the Senate Committee on Rules deems resources are available, shall include all of the following activities:

(1) The completion of a detailed resident profile, which shall identify the specific needs of types of residents who suffer from various impairments or disabilities.

(2) The examination, in detail, of the gaps between the social, health, and support needs of residents and the levels and types of services provided by senior housing programs.

(3) The making of recommendations including, but not limited to, a definition of what constitutes "senior housing" in the overall long-term care continuum, as well as the setting forth of public policy options that reflect California's current commitment to maintain elderly persons in the most unrestrictive and independent settings possible; and be it further

Resolved, That the Senate Office of Research shall submit the completed two phases of the study to the Legislature on or before September 1, 1993; and be it further

Resolved, That the Secretary of the Senate shall transmit copies of this resolution to the Senate Office of Research and the Assembly Office of Research.

RESOLUTION CHAPTER 104

Senate Concurrent Resolution No. 42—Relative to the development and use of energy efficient technologies.

[Filed with Secretary of State September 16, 1991.]

WHEREAS, The Legislature, in passing the Warren-Alquist State Energy Resources Conservation and Development Act (Division 15

(commencing with Section 25000) of the Public Resources Code), established that it is the policy of the State of California to promote all feasible means of improving energy efficiency; and

WHEREAS, The Legislature, in passing the California Clean Air Act of 1988 (Chapter 1568 of the Statutes of 1988), is committed to improving ambient air quality throughout the state and ensuring the state's compliance with federal clean air standards; and

WHEREAS, Achievement of these two goals requires energy efficient technologies, practices, and procedures that provide for the efficient use of natural resources and provide environmental benefits; and

WHEREAS, Energy efficient technologies are expected to reduce energy costs, reduce the environmental impact of existing and new energy facilities, improve industrial and commercial productivity and competitiveness, and assist the state in meeting air quality regulations; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That it is the policy of the State of California to encourage the development and use of environmentally clean, cost-effective, energy efficient technologies that provide for the efficient use of natural resources; and be it further

Resolved, That all state agencies regulating energy or environmental activities shall encourage and facilitate the state's energy utilities in developing, demonstrating, promoting, and using technologies, and in purchasing energy, consistent with this policy.

RESOLUTION CHAPTER 105

Senate Concurrent Resolution No. 48—Relative to the Leslie G. Delbon Memorial Bridge.

[Filed with Secretary of State September 16, 1991.]

WHEREAS, The many significant contributions of Leslie G. Delbon, a resident of Tuolumne County and one of its most respected community leaders, will be long remembered and appreciated by generations to come; and

WHEREAS, His activities included participation both as a member and President of the Sonora Rotary Club, as well as membership in the Tuolumne County Aeronautical Association; and

WHEREAS, A former Manager and Chief Engineer of Tuolumne Water District Number 2, he oversaw the development and operation of a water, sewer, and wastewater treatment system which serves a significant segment of the county's residents and businesses; and

WHEREAS, As a local contractor, Leslie G. Delbon was responsible for constructing many of Tuolumne County's

educational facilities; and

WHEREAS, One of Mr. Delbon's most significant accomplishments prior to his untimely death was overseeing his firm's construction of a highway bridge over Sullivan Creek on State Highway Route 108; and

WHEREAS, The new bridge will help alleviate traffic congestion and improve motorist safety on this major Tuolumne County traffic artery; and

WHEREAS, It is fitting, therefore, that Leslie G. Delbon's many contributions to his community and to the County of Tuolumne be appropriately recognized; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the new bridge crossing Sullivan Creek on State Highway Route 108 in Tuolumne County be officially designated the Leslie G. Delbon Memorial Bridge; and be it further

Resolved, That the Department of Transportation is directed to determine the cost of appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing the special designation and, upon receiving donations from nonstate sources covering that cost, to erect those plaques and markers; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 106

Senate Joint Resolution No. 9—Relative to airline safety.

[Filed with Secretary of State September 16, 1991.]

WHEREAS, A recent ground collision between a USAir jetliner and a commuter plane, which has so far left 34 people dead, has been attributed to air controller error and malfunctioning radar; and

WHEREAS, Those conditions might have been prevented had the Aviation Trust Fund spent some of the $10 billion it has set aside for modernization of the nation's air traffic control system; and

WHEREAS, Air traffic controllers, trained and hired by the Federal Aviation Administration (FAA), are short an estimated 3,000 controllers nationwide, according to the National Air Traffic Controllers Association, and some of these, according to Los Angeles Times research, appear to receive inadequate training at smaller airports before being stationed at major airports such as Los Angeles International Airport (LAX); now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation to improve air safety at major United States airports,

including provisions for a review of the number of air traffic controllers hired and trained since the 1981 strike, a determination of the additional number of controllers needed and the percentage of current controllers rated at full-performance level, and an investigation of the need for measures to facilitate emergency operations in the event of massive casualties in airport crashes; and be it further

Resolved, That the Legislature of the State of California supports the implementation by the Federal Aviation Administration of internationally recognized standards of safety relative to uniform runway and taxiway operational parameters; and be it further

Resolved, That the Legislature of the State of California requests an investigation by the Federal Aviation Administration into the interior safety of airplanes in regard to the flammability of, and the potential to produce toxic smoke, in materials used; and be it further

Resolved, That the Legislature of the State of California requests the federal government to assist in the expeditious building, staffing, and operation of a new replacement air traffic control tower at Los Angeles International Airport (LAX); and be it further

Resolved, That the Legislature of the State of California supports the expeditious release and appropriation by the Congress of moneys in the Airport and Airways Trust Fund; and be it further

Resolved, That the Legislature of the State of California supports the expeditious implementation of the National Airspace System Plan and the procurement of Improved Airport Surface Detection Equipment (ASDE-3 radar) by the Federal Aviation Administration at all California commercial airports; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 107

Senate Joint Resolution No. 20—Relative to the boundaries of Alaska.

[Filed with Secretary of State September 16, 1991.]

WHEREAS, Every state has a compelling constitutional interest in determining its own boundaries with other states and foreign countries; and

WHEREAS, The State of Alaska's boundary with the Soviet Union has been the subject of negotiations between the United States government and the Soviet government since 1981; and

WHEREAS, The State of Alaska has never been permitted to

participate in the negotiations carried on by the Department of State; and

WHEREAS, The Alaska Legislature has vigorously protested this exclusion in the form of Senate Joint Resolution 12, which was passed unanimously by both houses and signed by Governor Steve Cowper in May 1988; and

WHEREAS, The Department of State ignored these protests, and its negotiations have resulted in a proposed treaty titled "Agreement with the Union of Soviet Socialist Republics on the Maritime Boundary," which is now before the United States Senate for ratification; and

WHEREAS, The California Legislature previously expressed its support for the State of Alaska for its right to participate in any negotiations affecting its boundaries in the form of Resolution Chapter 122 of the Statutes of 1987; and

WHEREAS, It is settled procedure with respect to negotiations of state boundaries that representatives of any affected state not only must be included in the negotiations, but also must consent to the terms of the proposed boundary treaty (such as was the case when Secretary of State Daniel Webster negotiated with Great Britain over the boundary between Canada and the State of Maine in 1842); now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the California Legislature renews its support for the State of Alaska in its rightful position of participation in any boundary negotiations involving its boundaries with the Soviet Union; and be it further

Resolved, That the California Legislature (1) respectfully memorializes the President of the United States to withdraw the proposed treaty from consideration by the United States Senate and (2) requests the California United States Senators to decline to consider the proposed treaty, until such time as the State of Alaska has been able to participate fully in negotiations and has been guaranteed that its consent will be required for any agreement affecting its boundaries; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Governor of Alaska, to the President of the Alaska Senate, and to the Speaker of the Alaska House of Representatives.

RESOLUTION CHAPTER 108

Senate Joint Resolution No. 29—Relative to Freedom for the Soviet Republics.

[Filed with Secretary of State September 16, 1991.]

WHEREAS, The people of the Soviet Union have finally thrown off the yoke of totalitarianism after a failed Communist coup; and

WHEREAS, Boris Yeltsin, the first democratically elected leader, was instrumental in turning back the forces of totalitarianism and in rejecting Communism in the Russian Republic; and

WHEREAS, This is the 23rd anniversary of the Prague Spring in which the Soviet Union and the Warsaw Pact countries invaded Czechoslovakia in order to crush the liberalization drive of Alexander Dubcek; and

WHEREAS, The Warsaw Pact no longer exists--the Eastern Bloc countries of Czechoslovakia, Poland, and East Germany have gained freedom from the tyranny of the Soviet system; and

WHEREAS, The Republic of Armenia struggles to rid itself of the oppressive antifree market domination of the Soviet Union; and

WHEREAS, The Republics of Estonia, Latvia, and Lithuania have declared themselves independent and are represented by democratically elected presidents; and

WHEREAS, The United States of America has never recognized Stalin's forcible incorporation of Estonia, Latvia, and Lithuania into the Soviet Union; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That it is the sense of the California State Legislature that the United States should recognize Estonia, Latvia, and Lithuania as free and independent states, and support the other republics, such as Armenia, who are struggling to achieve freedom, self-government, and autonomy; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Governor of California.

RESOLUTION CHAPTER 109

Assembly Concurrent Resolution No. 58—Relative to Learning in Retirement.

[Filed with Secretary of State September 17, 1991.]

WHEREAS, The community of retirement and semiretired persons in California is constantly increasing in numbers, and a great number of those persons are in good health, active, curious, thoughtful, and knowledgeable; and

WHEREAS, A substantial portion of this retired community consists of persons with lifelong experiences and educational backgrounds in the professions, the arts, and in business and industry; and

WHEREAS, Many of these retired persons are active in the responsibilities of a concerned citizenship, in volunteering and in contributing to their local communities; and

WHEREAS, This segment of the retired community has the will and experience to manage their affairs and, accordingly, desires the pursuit of educational programs that are created, designed, and taught by volunteers who are retired members through membership-governed institutes sponsored by universities and colleges, where the members of these institutes explore higher learning at their own pace, without the need for degrees, grades, or examinations, but simply because they want to continue learning; and

WHEREAS, These institutes draw on the accumulated lifetime experience of their members; the members themselves develop and design their own studies, participate in the necessary work of inquiry and reading, stimulate meaningful discussion, set achievable educational objectives, and carry out the planning and governing of their own activities within, and in support of, their sponsoring institutions; and

WHEREAS, Many members of existing institutes have contributed valuable services to their respective institutions, as volunteers, assisting with various activities or working with undergraduates, as leaders for university-community programs, and as providers of financial support for institutional programs; and

WHEREAS, The Master Plan for Higher Education in California does not specifically provide for self-directed noncredit education for the senior, retired community; and

WHEREAS, This college-level "Learning in Retirement" movement in the United States has grown rapidly and seeks to gain broader recognition as a mutually beneficial association with universities and colleges through the establishment of member-driven institute learning programs designed for the "Third Age" of retired senior citizens; and

WHEREAS, The mission statements in the Master Plan for Higher Education specifically state that all public institutions of higher education in California shall "include responsibility to the public good" and provide educational community services; and

WHEREAS, It is essential to encourage support for membership-driven institutes, and their access to needed campus facilities to ensure success and, in the process, to contribute to the continued mental and physical health of retired senior citizens; now,

therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby requests the Regents of the University of California, the Trustees of the California State University, and the Board of Governors of the California Community Colleges, and the chancellors of their respective campuses, to look with favor on the establishment of campus-related, membership-driven, Learning in Retirement types of organizations or institutes at their respective state supported institutions of higher education in California; and be it further

Resolved, That the Regents, the Trustees, and the Board of Governors of the above-mentioned state supported universities and colleges are encouraged to provide lists of qualified personnel, consistent with statutory provisions and institutional policies, on their respective campuses who may be contacted by interested parties to initiate discussions on the possibility of establishing these membership-driven learning organizations and institutes; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Regents of the University of California, the Trustees of the California State University, and the Board of Governors of the California Community Colleges.

RESOLUTION CHAPTER 110

Assembly Concurrent Resolution No. 62—Relative to environmental damage.

[Filed with Secretary of State September 17, 1991.]

WHEREAS, The University of California has managed the Lawrence Livermore National Laboratory, Lawrence Berkeley National Laboratory, and the Los Alamos National Laboratory under contract to the United States Department of Energy; and

WHEREAS, Those contracts do not place financial liability for environmental accidents or hazards associated with the operation of these federally owned facilities upon the University of California or the taxpayers of this state; and

WHEREAS, It is in the best interest of the State of California and its taxpayers to continue protection from liability for environmental damage stemming from the operation of these laboratories; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That it is the intent of the Legislature that neither the State of California, nor the University of California or any other state agency, accept financial liability or responsibility for environmental damage originating from the operation of the

Lawrence Livermore National Laboratory, Lawrence Berkeley National Laboratory, or Los Alamos National Laboratory and that no contract be entered into which would subject the state to any such liability.

RESOLUTION CHAPTER 111

Assembly Concurrent Resolution No. 68—Relative to AIDS-Related Health Care Planning and Policy.

[Filed with Secretary of State September 17, 1991]

WHEREAS, On November 5, 1990, the President of the United States signed HR 5257 that appropriated funds for fiscal year 1991 for the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act of 1990; and

WHEREAS, California has received $22 million under the Title I of the Emergency Relief Grant Program of the CARE Act to provide emergency assistance to metropolitan areas hardest hit by the HIV epidemic, specifically Los Angeles, San Francisco, and San Diego; and

WHEREAS, The principal intent of the CARE Act is to foster working relationships and linkages among care providers towards the goal of creating an accessible and comprehensive continuum of care for the HIV-affected; and

WHEREAS, To that end, implementation of the CARE Act rests primarily with local planning councils which are vested with broad authority to establish funding priorities, develop comprehensive plans for the delivery of HIV/AIDS services, and, to ensure the rapid allocation of emergency funds to the areas of greatest need; and

WHEREAS, The CARE Act mandates that the composition of the planning councils be inclusive and representative of the diverse communities impacted by HIV; and

WHEREAS, The CARE Act requires that the decisionmaking process maximize participation among community-based care providers and, that the unmet needs of those most severely impacted by the AIDS epidemic be addressed; and

WHEREAS, The San Francisco Planning Council, operating by consensus and within the intent, the letter, and the spirit of the law, serves as a model for the formation of an effective community partnership, thus ensuring the expedited release of emergency funds; and

WHEREAS, In contrast, the operations of the Los Angeles County Department of Health Services in this regard have resulted in prolonged and unnecessary delays in the release of disaster relief funds; and

WHEREAS, The availability of future federal AIDS funding for

Los Angeles County under the CARE Act is contingent upon a showing that a coordinated system of care is in place and that funds are being expended on a timely basis; and

WHEREAS, The CARE Act stipulates that, as a condition for receipt of federal funds, the chief elected official of the eligible areas adopt the planning council's recommendations; therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature upholds and affirms the goal of the CARE Act to maximize community-based participation in AIDS-related health care planning and policy. Furthermore, the Legislature urges Los Angeles County officials to cooperate fully with the Los Angeles Planning Council and take all necessary steps to expedite the release of CARE Act funds so as to not jeopardize future federal AIDS funding.

RESOLUTION CHAPTER 112

Assembly Concurrent Resolution No. 51—Relative to spinal cord injury.

[Filed with Secretary of State September 20, 1991.]

WHEREAS, Spinal cord injury is a condition which leaves individuals paralyzed and afflicts 500,000 Americans; and

WHEREAS, The care of chronic spinal cord injured quadriplegics costs California $340,000,000 annually; and

WHEREAS, The care and rehabilitation of acute or newly injured spinal cord injury victims costs $60,000,000 annually; and

WHEREAS, Motor vehicle accidents are the leading cause of spinal cord injury; and

WHEREAS, Driving under the influence of intoxicants are a major cause of severe accidents; and

WHEREAS, Spinal cord injury has serious physical, emotional, financial, and social consequences for its victims and their families; and

WHEREAS, Progress has been made in spinal cord injury research including the discovery of molecules which promote the growth of the injured spinal cord cell; and

WHEREAS, The discovery of genes which control regeneration of chronically damaged spinal nerves and chemicals for activating these genes, as well as substances which inhibit growth in the spinal cord, and the discovery and development of antibodies to those inhibitors may pave the way for significant regeneration of the spinal cord; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That basic research on the restoration of spinal cord function, epidemiologic and other research on the prevention

of spinal cord injury, basic and clinical research on rehabilitation techniques, basic and clinical research on common problems in the management of acute and chronic spinal cord injury and epidemiologic and other research prevention studies which focus on the relationship between automobile accidents, alcohol, and spinal cord injury be encouraged throughout California; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to each President and Chancellor of the University of California system and other private universities within the state.

RESOLUTION CHAPTER 113

Assembly Concurrent Resolution No. 63—Relative to Constitution Week and Constitution Day.

[Filed with Secretary of State September 20, 1991.]

WHEREAS, It is appropriate and fitting that Californians commemorate the historical contributions that the United States Constitution has made to citizens and its significance in preserving the individual freedoms, liberties, and common welfare of the people who live in the United States; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California hereby declares the third week in September as Constitution Week and September 17 as Constitution Day; and be it further

Resolved, That the Governor is hereby requested to proclaim Constitution Week and Constitution Day and that the proclamation shall:

Call upon the news media, educators, state and local officers, professional, business, and labor leaders, and others in positions of authority or influence to bring to the attention of California's citizens the importance of the United States Constitution in shaping and articulating the basic values that underlie the unique character of America civilization and culture, based on the belief that sovereignty emanates from the people who comprise a society and that governmental authority is based upon the consent of the governed.

Encourage elected and appointed officers and employees at all levels of government and in all public and educational institutions to develop new programs and new ideas by which the citizens of this state and nation can better understand and improve the effectiveness of all branches of government established within the American constitutional system.

Direct appropriate officers and agencies to develop recommendations by which federal, state, and local policies for the preservation of historical records can be formulated and put into effect, so that the cultural and informational resources that are

essential to a constitutional form of government are preserved and made accessible to present and future generations of citizens.

Remind all citizens that the preservation of the American constitutional form of government, and the freedom and liberty guaranteed by the United States Constitution, are based upon the responsibility of each citizen to uphold and defend the Constitution; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Governor of the State of California.

RESOLUTION CHAPTER 114

Assembly Concurrent Resolution No. 64—Relative to commemorating the 200th anniversary of the Bill of Rights.

[Filed with Secretary of State September 20, 1991]

WHEREAS, "We the People" did ordain and establish a Constitution and Bill of Rights for the United States of America to secure the blessings of liberty for ourselves and our posterity; and

WHEREAS, The Constitution of the United States of America is the fundamental law of our nation and has a direct impact on our daily lives; and

WHEREAS, The Bill of Rights of the Constitution of the United States of America embodies the fundamental freedoms and individual liberties that we, as Americans, cherish; and

WHEREAS, This year marks the 200th anniversary of the state's ratification of the Bill of Rights of the Constitution of the United States of America and our country is preparing to commemorate the Bicentennial of the Bill of Rights on December 15, 1991; and

WHEREAS, Freedoms Foundation at Valley Forge has offered a "Bill of Responsibilities" to commemorate the Bicentennial of the Bill of Rights and urges all Americans to accept the following responsibilities to secure and expand our freedom as individual members of a free society:

(1) To be fully responsible for our own actions and for the consequences of those actions;

(2) To respect the rights and beliefs of others;

(3) To give sympathy, understanding, and help to others;

(4) To do our best to meet our own and our families' needs;

(5) To respect and obey the laws;

(6) To respect the property of others, both private and public;

(7) To share with others our appreciation of the benefits and obligations of freedom;

(8) To participate constructively in the nation's political life;

(9) To help freedom survive by assuming personal responsibility for its defense; and

(10) To respect the rights and to meet the responsibilities on which our liberty rests and our democracy depends; and

WHEREAS, An important goal of California's educational system is to instill pride in our country and an appreciation of the values and principles that were vital to our Founding Fathers when the Bill of Rights was written; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the California Legislature hereby proclaims December 15, 1991, and December 15 of each succeeding year as "Bill of Rights Day" and December 16, 1991, and December 16 of each succeeding year as "Bill of Responsibilities Day" in the State of California and urges the citizens of California to reflect on the blessings of liberty guaranteed to American citizens by the Bill of Rights and the corresponding responsibilities which support, preserve, and defend the rights of citizenship against encroachment; and be it further

Resolved, That the California Legislature hereby urges every elementary and secondary school in California to display prominently and permanently a copy of the Bill of Rights, to celebrate the bicentennial anniversary of its ratification; and be it further

Resolved, That a copy of this resolution along with a copy of the Bill of Rights and the Bill of Responsibilities be transmitted forthwith by the Chief Clerk of the Assembly to the Freedoms Foundation at Valley Forge, the Governor, the Superintendent of Public Instruction for the State of California and the superintendent of every school district in this state for distribution to each school within the district.

RESOLUTION CHAPTER 115

Assembly Concurrent Resolution No. 74—Relative to California Planning Week.

[Filed with Secretary of State September 20, 1991.]

WHEREAS, The week commencing October 20, 1991, has been designated "California Planning Week" by the California Chapter of the American Planning Association; and

WHEREAS, The American Planning Association is an organization dedicated to protecting, promoting, and enhancing the quality of life in counties, cities, and towns across California through a commitment to effective urban, rural, and regional planning; and

WHEREAS, The American Planning Association represents more than 30,000 professional planners nationwide, including more than 5,000 members in California; and

WHEREAS, The American Planning Association promotes the

values of good urban, rural, and regional planning for professional and lay planners, citizen activists, community leaders, and elected officials committed to the quality of urban life; and

WHEREAS, Through its subsidiary institute, the American Institute of Certified Planners, the American Planning Association recognizes academic programs in urban and regional planning, certifies professional planners, and conducts continuing education programs; and

WHEREAS, The California Chapter of the American Planning Association has been a leader in planning thought and education through its affiliated organization, the California Planning Foundation; and

WHEREAS, California planners have long set a national standard for progressive thought in both design and policy for counties, cities, and regions, incorporating disciplines as broad as architecture, landscape architecture, engineering, geography, transportation, ecology, historic preservation, agricultural preservation, the social sciences, and public administration; and

WHEREAS, The eight California sections comprising the California Chapter will meet together at the California Chapter, American Planning Association Conference from October 21 through 23, in Sacramento; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Members of the Legislature recognize the week commencing October 20, 1991, as "California Planning Week" and call upon the citizenry to recognize and participate in the observance of this worthy occasion; and be it further

Resolved, That the Chief Clerk of the Assembly transmit this resolution to the Governor of the State of California.

RESOLUTION CHAPTER 116

Assembly Concurrent Resolution No. 75—Relative to proclaiming California Coast Weeks and Adopt a Beach Coastal Cleanup Day.

[Filed with Secretary of State September 20, 1991.]

WHEREAS, The State of California has a diverse coastline consisting of sandy beaches, rocky shores, productive estuaries, marshes and tidal flats, urban areas, and harbors; and

WHEREAS, The coast provides a rich scenic, recreational, cultural, and historical heritage; and

WHEREAS, The natural resources of the coastal zone are among California's most important environmental and economic resources; and

WHEREAS, The marine environment is one of the most valuable resources for recreation, tourism, fishing, and other coastal

industries; and

WHEREAS, The Legislature is strongly committed to the wise management of the coastline to assure that the environmental and economic value of the coastal zone will be sustained; and

WHEREAS, Preserving the productivity and quality of coastal resources requires public awareness, support, and understanding that protection of the coast is a responsibility shared by the citizens, the business community, and public institutions; and

WHEREAS, The California Coastal Commission's Adopt a Beach program helps reduce litter, promotes recycling, and encourages preservation of natural resources; and

WHEREAS, National Coast Weeks will be held from September 21 through October 14, 1991, and the California Coastal Commission will be coordinating appropriate activities in this state; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby proclaims September 21 through October 14, 1991, as California Coast Weeks; and be it further

Resolved, That the Legislature proclaims September 21, 1991, as Adopt a Beach Coastal Cleanup Day; and be it further

Resolved, That the Legislature urges all Californians to join in appropriate observances of California Coast Weeks and Adopt a Beach Coastal Cleanup Day; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the California Coastal Commission.

RESOLUTION CHAPTER 117

Assembly Concurrent Resolution No. 76—Relative to Pearl Harbor.

[Filed with Secretary of State September 20, 1991.]

WHEREAS, A half-century has now passed since President Franklin Delano Roosevelt proclaimed December 7, 1941, a "Day of Infamy;" and

WHEREAS, That morning and that day radically altered the course of American lives and world history when, without warning, on a peaceful Sunday morning, at daybreak, most of America's Western Navy was destroyed as it lay at anchor in Pearl Harbor; and

WHEREAS, The U.S. Pacific Fleet was on minimum alert, with one-third of its sailors on weekend shore leave, antiaircraft guns mostly unmanned and reserve ammunition stored and locked; and

WHEREAS, Shortly after dawn, an unprovoked and sneak attack of war on the United States was initiated by the Empire of Japan, when two waves of its warplanes, some 360 strong, launched from a

33-ship armada, and exploded their bombs and torpedoes on the very heart of American air and sea power; and

WHEREAS, As the first wave of Japanese bombers began to unleash its arsenal, its squadron commander radioed a one-word message back to his fleet, "Tora," signifying success in catching their "enemy" by surprise; and

WHEREAS, Within minutes of the attack, the once serene Pearl Harbor was turned into a hellfire of death and destruction, in which 2,403 American lives were lost and another 1,178 were wounded, as some 18 Naval ships were either sunk or seriously damaged—including the mighty Arizona which now rests as an eternal mausoleum for 1,177 gallant Sailors and Marines—while at nearby airfields, 188 planes were destroyed and 159 were disabled; and

WHEREAS, The Japanese aggressors, by contrast, lost few lives, planes or warships, while Western defenses of America were destroyed, thus exposing and imperiling our Nation's very existence; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That on December 7, 1991, the 50th anniversary of that Day of Infamy, we—on behalf of the people of California—dutifully pay tribute to and commemorate the brave Americans at Pearl Harbor who gave their lives and those Americans wounded in that infamous attack; and be it further

Resolved, That we also honor those 17 million men and women of the U.S. Armed Forces who served in World War II, to the 292,131 who gave their lives during combat and to the 671,000 who were wounded in action; and be it further

Resolved, That we are reminded of the high price these brave men and women paid by these lines of Archibald MacLeish's poem, The Young Dead Soldier: "We leave you our deaths. Give them their meaning. We were young...We have died. Remember us."; and be it further

Resolved, Men and women of Pearl Harbor: We do remember you and vow never to forget you.

RESOLUTION CHAPTER 118

Assembly Joint Resolution No. 42—Relative to breast cancer research.

[Filed with Secretary of State September 20, 1991.]

WHEREAS, Every American woman should consider herself at risk of breast cancer; and

WHEREAS, Breast cancer remains the most common form of cancer in women, and ranks second only to lung cancer as the

leading cause of cancer deaths among women; and

WHEREAS, Breast cancer robs women of their security, their dignity, and valuable years of motherhood to the children they leave behind; and

WHEREAS, 175,000 women were diagnosed with breast cancer in 1990 and 44,500 women will die from breast cancer this year; and

WHEREAS, There is recognition and significant alarm over new statistical data indicating that breast cancer in the United States is rising at a rate of approximately 2 percent a year; and

WHEREAS, While 30 years ago, breast cancer struck one in every 20 American women, today one out of nine American women will develop breast cancer in her lifetime; and

WHEREAS, Of those women who contract breast cancer, one out of four will die from the disease, and this death rate represents a 24 percent increase since 1979; and

WHEREAS, The annual direct medical costs of breast cancer to our society are $2 billion, more than $2,000 a year per woman living with breast cancer; and

WHEREAS, The direct and indirect costs concerning a breast cancer diagnosis exact an economic toll of $8 billion a year. This figure is computed by the impact on the health system, the loss of work time, the loss of women employees, and the lives lost to a disease that bankrupts families emotionally and economically; and

WHEREAS, Current breast cancer research is directed at detection and treatment, but basic research to prevent healthy women from ever getting breast cancer is virtually nonexistent; and

WHEREAS, The total budget for the National Cancer Institute (NCI) has increased by only $23 million in inflation-adjusted dollars during the last decade, the lowest percentage increase among all the institutes of health; and

WHEREAS, Due to the lack of funds, only 26 percent of the NCI breast cancer grant requests approved through the peer review process currently receive any money; and

WHEREAS, The continuing rise in the lifetime risk of breast cancer incidence means that emphasis must be given to breast cancer when research grants are funded; and

WHEREAS, The only effective means of protecting the health of American women is to conduct the critically needed basic breast cancer research as proposed on the federal level; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes Congress and the President of the United States to enact HR 2210, the Breast Cancer Basic Research Act, by Representative Mary Rose Oakar, which would allocate $50 million to the National Cancer Institute for breast cancer research; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United

States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 119

Assembly Joint Resolution No. 48—Relative to the Unemployment Insurance Reform Act of 1991.

[Filed with Secretary of State September 20, 1991.]

WHEREAS, Congress has passed the Unemployment Insurance Reform Act of 1991 (hereafter the "Act"); and

WHEREAS, The Act will provide 550,000 people in California, who have lost jobs covered by the unemployment insurance system, with 13 weeks of unemployment benefits, in addition to the 26 weeks of benefits that are provided under current law; and

WHEREAS, Nationwide, the Act will provide up to 20 weeks of extra compensation to 3 million unemployed workers; and

WHEREAS, The Act authorizes four levels of weeks of eligibility for extended unemployment benefits. The number of weeks of benefits payable to an unemployed worker in a particular state would be determined by the state's total unemployment rate; and

WHEREAS, In California, where the unemployment rate fluctuates around 7 percent, workers who lost their jobs would be eligible under this Act for 39 weeks of unemployment compensation; and

WHEREAS, The Act authorizes benefits to be paid from September 1, 1991, to July 4, 1992; and

WHEREAS, In order to obtain President George Bush's signature on the Act, it was amended to require a separate emergency designation to be declared in order to release the $5.3 billion in federally paid benefits; and

WHEREAS, The President has indicated that he will not sign an emergency declaration despite the nation's recession which has left many middle class Americans without jobs; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President of the United States to sign a declaration of emergency to release the $5.3 billion in extended emergency unemployment benefits; and be it further

Resolved, That in the event the President does not sign a declaration of emergency to implement those provisions of the Act that would release moneys for extended emergency unemployment benefits, that Congress pursue the original version of the bill that would have considered a signature on the legislation to be a declaration of an emergency; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 120

Assembly Concurrent Resolution No. 13—Relative to the Citizen's Commission on Ballot Initiatives.

[Filed with Secretary of State September 25, 1991]

WHEREAS, The right of initiative was added to the California Constitution in 1911 as means for the people to diffuse the power of special interests and monopolies; and

WHEREAS, Widely employed in the first half of the century but little used during the 1950s and 1960s, over 400 ballot measures have been authorized for circulation during the last two decades, which represent 60 percent of all petitions authorized for circulation in the nearly 80-year history of the initiative in California; and

WHEREAS, Important public policy questions are being determined, not by elected officials or broad-based public spirited groups but, by narrow and unaccountable single interest groups operating through the initiative process and generously financed political campaigns; and

WHEREAS, A disturbing number of recent initiative measures have been drafted to be financially beneficial to the sponsors, to be purposely contradictory in effect in an effort to cancel sections or entire competing measures, to severely limit the budgetary authority of state and local officials, and to be extremely complex regulatory schemes or wholesale proposals for the overhaul of entire areas of state law; and

WHEREAS, The increasing frequency of initiatives has been fostered by an "initiative industry," composed of attorneys, paid petition circulators, and campaign consultants, who enjoy considerable profits from the proliferation of ballot measures; nearly $130 million was expended on the 29 ballot measures that appeared on the November, 1988. ballot and $91 million for the 28 measures on the November, 1990, ballot; and

WHEREAS, As the ballot has been increasingly overburdened by evermore complex initiative measures, participation levels and voter awareness have declined; election day polls for the 1990 primary election showed that 40 to 50 percent of those casting votes had little or no knowledge of several key ballot propositions; and

WHEREAS, A leading scholar of the initiative process has concluded that, while it has produced benefits for the people of

California, these have come "at an extraordinary cost—an erosion of responsibility in the executive and legislative branches of state government, a simultaneous overload in the judiciary and on over-amended state constitution alongside a body of inflexible quasi-constitutional statutory law"; and

WHEREAS, A recent statewide opinion poll found that while 66 percent of voters support the initiative process, down from 83 percent in 1979, an overwhelming majority of respondents believe that the ballot has become unwieldy and overly complicated and 60 percent feel that the initiative process now needs to be reformed; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature, working through a citizen commission appointed by the Speaker of the Assembly, the Senate Committee on Rules, and the Governor, conduct a study to determine ways in which the initiative process in California can be improved; and be it further

Resolved, That this body shall be called the Citizen's Commission on Ballot Initiatives and shall be composed of 12 appointed members and the Attorney General, or a designee, the Secretary of State, or a designee, and the president of the County Clerks' Association, or a designee; and be it further

Resolved, That the Speaker of the Assembly, the Senate Committee on Rules, and the Governor shall each appoint four members, one from each of the following categories:

(1) Public sector.
(2) Academic community.
(3) Public in general.
(4) Business sector.

A commission chairperson shall be elected by the commission members; and be it further

Resolved, That consultation and assistance, where feasible and appropriate, shall be made available by the Assembly Committee on Elections, Reapportionment, and Constitutional Amendments, the Senate Committee on Elections and Reapportionment, the Secretary of State, and the Legislative Analyst; and be it further

Resolved, That the commission shall review, study, and evaluate the statewide initiative process for the purposes of determining how the statewide initiative process may be adjusted, changed, or revised in order to preserve and protect the exercise of the initiative power by the people, as originally intended by the framers of the initiative process, and to assist in the resolution of issues presented by the initiative process as it presently exists; and be it further

Resolved, That the commission use existing studies and reports on the initiative process to the fullest extent possible in conducting its study and preparing its report, and that the commission submit a report with recommendations to the Legislature by March 1, 1992; and be it further

Resolved, That the commission shall terminate on January 1, 1993;

and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Secretary of State, the Legislative Analyst, and all local election officials.

RESOLUTION CHAPTER 121

Assembly Concurrent Resolution No. 66—Relative to Justice Thurgood Marshall.

[Filed with Secretary of State September 25, 1991.]

WHEREAS, United States Supreme Court Associate Justice Thurgood Marshall was the great-grandson of a slave; and

WHEREAS, Thurgood Marshall attended Howard Law School after being denied admission to a segregated law school; and

WHEREAS, He worked as chief lawyer and civil rights strategist for the NAACP Legal Defense and Educational Fund from 1940 to 1961; and

WHEREAS, In 1954 he argued the case of Brown v. Board of Education before the Supreme Court of the United States, which led to the Court's decision to overrule the 1896 case of Plessy v. Ferguson and to hold that segregated schools are inherently unequal and therefore unconstitutional; and

WHEREAS, In 1961, President John F. Kennedy appointed him to the United States Court of Appeals, and in 1965, President Lyndon B. Johnson appointed him as United States Solicitor General; and

WHEREAS, He was appointed by President Johnson to the United States Supreme Court in 1967, and served as Associate Justice for 24 years; and

WHEREAS, He fought tirelessly during his entire professional career for civil rights and the protection of individual liberties and minority rights, and authored many important decisions including Stanley v. Georgia and California Federal v. Guerra; and

WHEREAS, On June 27, 1991, he announced his resignation from the Court for reasons of advancing age and medical condition; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California hereby commends Associate Justice Thurgood Marshall on the occasion of his retirement and for his distinguished service to this country; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to the author of this measure for appropriate distribution.

RESOLUTION CHAPTER 122

Assembly Joint Resolution No. 37—Relative to federal labor laws.

[Filed with Secretary of State September 25, 1991.]

WHEREAS, The practice of replacing striking workers has increased dramatically since 1981; and

WHEREAS, The right of workers to withhold their labor during negotiations has been an essential element of the collective bargaining process; and

WHEREAS, Employee faith in the collective bargaining process is damaged by any undermining of this basic right, thereby increasing the probability of prolonged and disruptive labor disputes and increased economic hardship; and

WHEREAS, An increasing number of employers in the 1980's relied upon a 1938 Supreme Court ruling that legalized the "replacement" of striking workers and a 1986 decision that authorized preferential treatment for strikebreakers, thereby disturbing the balance of power which had previously ensured fair and expedient labor negotiations; and

WHEREAS, Thousands of workers in California have lost their jobs when they chose to exercise their rights and, in effect, their last practical recourse under the National Labor Relations Act and the Railway Labor Act; and

WHEREAS, Proposed amendments to the National Labor Relations Act and the Railway Labor Act contained in H.R. 5 and S. 55 would make it unlawful to offer permanent employment or employment preference to an individual who would work during a strike; and

WHEREAS, Approval of H.R. 5 and S. 55 would restore the right to strike to its historical status as a legitimate tool of the collective bargaining process; and

WHEREAS, H.R. 5 and S. 55 would further prohibit employers from providing preferential benefits to workers who would cross the picket line to return to work and thus protect the rights of, and prevent retribution against, workers who participate in job actions; and

WHEREAS, H.R. 5 and S. 55 are essential to restoring the integrity and purpose of the National Labor Relations Act's and the Railway Labor Act's time-tested process for the fair and equitable disposition of labor disputes; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes by limiting the hiring of permanent replacement workers during bona fide labor-management disputes and prohibiting employers from

offering preferential benefits to those workers; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 123

Assembly Joint Resolution No. 40—Relative to mifepristone (RU-486).

[Filed with Secretary of State September 25, 1991.]

WHEREAS, the antiprogesterone steroid mifepristone, known as RU-486, has been approved and available in France since November of 1988; and

WHEREAS, It is in keeping with basic medical standards to avoid surgical procedures whenever an equally effective noninvasive alternative is available; and

WHEREAS, The medical community has identified RU-486 as a promising treatment for medical purposes, including the termination of early pregnancy, treatment of breast and brain cancer, endometriosis, AIDS, glaucoma, gynecological malignancies, osteoporosis, Cushing's disease, and other serious conditions facing women and all Americans; and

WHEREAS, The American Medical Association, the American Public Health Association, the American College of Obstetricians and Gynecologists, the American Association for the Advancement of Science, the California Medical Association, the California Chapter of the American College of Obstetricians and Gynecologists, Los Angeles Medical Commission, and the California Conference of Local Health Officers have formally recognized the importance of RU-486 and support the testing of RU-486 in the United States; and

WHEREAS, The Food and Drug Administration acted precipitously and without evidence that RU-486 was brought into the country illegally when it enacted the import alert against RU-486, and this import alert has thwarted the availability of RU-486 to the few scientific research studies being conducted in the United States with the drug; and

WHEREAS, California is the largest state in the nation and should maximize its resources to help make this technology available to women; and

WHEREAS, All American women and their families are entitled to the best medical research and this drug may be the solution to many conditions now predominantly affecting women; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California memorializes the Congress and the President of the United States to rescind the import alert imposed by the Food and Drug Administration and support the use of RU-486 for all appropriate research and, if indicated, clinical trials; and be it further

Resolved, That the Legislature of the State of California urges the State Department of Health Services to use its statutory authority to approve the use of RU-486 in clinical trials as expeditiously as possible; and be it further

Resolved, That the Legislature of the State of California encourages all qualified investigators, companies, and businesses which decide to test RU-486 to choose California as the site for clinical trials for all research associated with RU-486 and to submit the data from the clinical trials to the Food and Drug Administration and the State Department of Health Services; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the manufacturer of RU-486, Roussel UCLAF, 35 Boulevard des Invalides 75007, Paris France, to the Commissioner of the federal Food and Drug Administration, and to the State Director of Health Services.

RESOLUTION CHAPTER 124

Assembly Joint Resolution No. 49—Relative to the United States Air Force B-2 bomber.

[Filed with Secretary of State September 25, 1991.]

WHEREAS, The Congress of the United States will soon be deciding whether funding will be included within the 1991–92 Defense Authorization Bill for the continued production of the United States Air Force B-2 bomber; and

WHEREAS, A Joint Conference Committee comprised of distinguished members of the House of Representatives and the Senate will be formulating the final recommendations for the funding of all defense programs that must be approved by the President of the United States; and

WHEREAS, Stealth technology, born in California, gives the United States assured dominance over any adversary and, as proven in Operation Desert Storm, saves the lives of our men and women; and

WHEREAS, The research and manufacture of the B-2 bomber, the only stealth airplane in production anywhere in the world, is

developed at Northrop Corporation's facilities in southern California; and

WHEREAS, The B-2 program employs 12,000 people and generates additional jobs through local suppliers and subcontractors, and has a total employment impact on California of more than 35,000 jobs; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the B-2 bomber is acknowledged as vital to the future defense needs and the maintaining of the technological superiority of the United States; and be it further

Resolved, That the Congress of the United is hereby urged to include funding for the continued production of the United States Air Force B-2 bomber at the level requested by the President, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Defense, to the Chairman of the Joint Chiefs of Staff, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 125

Senate Joint Resolution No. 28—Relative to railroad safety.

[Filed with Secretary of State September 26, 1991.]

WHEREAS, On July 14, 1991, a major derailment in Shasta County, California between Dunsmuir and Mount Shasta involving a Southern Pacific Transportation Company freight train caused a single-wall tank car to spill its contents of the chemical metam sodium into the Sacramento River, fouling the river, killing fish and wildlife, and sickening some nearby residents; and

WHEREAS, Between 1976 and 1990, 43 derailments or other accidents have occurred on this 20-mile section of track, and the metam sodium spill is the 20th rail accident in the past 15 years on the same three miles of track; and

WHEREAS, Single-wall rail tank cars experience punctures, and resultant dangerous leaks, in accidents twice as often as double-wall rail tank cars; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the California Legislature respectfully memorializes the President and Congress of the United States to do all of the following:

(1) Require the United States Department of Transportation to adopt an emergency regulation to immediately reclassify metam sodium as a hazardous substance so that it may be transported only

in double-wall rail tank cars appropriately placarded and then adopt a regulation through the regular process with the same effect;

(2) Require the United States Department of Transportation to investigate and review other chemical compounds not presently considered to be hazardous or toxic for possible reclassification as hazardous substances; and

(3) Require the Federal Railroad Administration to increase the enforcement of rail speed limitations and the National Transportation Safety Board to investigate conditions on the 20-mile section of track between Dunsmuir and Mount Shasta; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the United States Department of Transportation, to the Federal Railroad Administration, and to the National Transportation Safety Board.

RESOLUTION CHAPTER 126

Senate Concurrent Resolution No. 1—Relative to the adoption of the Joint Rules of the Senate and Assembly for the 1991–92 Regular Session.

[Filed with Secretary of State September 26, 1991.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the following rules be adopted as the Joint Rules of the Senate and Assembly for the 1991–92 Regular Session.

JOINT RULES OF THE SENATE AND ASSEMBLY

Standing Committees

1. Each house shall appoint such standing committees as the business of the house may require, the committees, the number of members, and the manner of selection to be determined by the rules of each house.

Joint Meeting of Committees

3. Whenever any bill has been referred by the Senate to one of its committees, and the same or a like bill has been referred by the Assembly to one of its committees, the chairmen or chairwomen of the respective committees, when in their judgment the interests of

legislation or the expedition of business will be better served thereby, shall arrange for a joint meeting of their committees for the consideration of such bill.

Effect of Adoption of Joint Rules

3.5. The adoption of the Joint Rules for any extraordinary session shall not be construed as modifying or rescinding the Joint Rules of the Senate and Assembly for any previous session, nor as affecting in any way the status or powers of the committees created by those rules.

Definition of Word Bill

4. Whenever the word "bill" is used in these rules, it shall include constitutional amendments, resolutions ratifying proposed amendments to the United States Constitution, and resolutions calling for constitutional conventions.

Concurrent and Joint Resolutions

5. Concurrent resolutions relate to matters to be treated by both houses of the Legislature.

Joint resolutions are those which relate to matters connected with the federal government.

Resolutions Treated as Bills

6. Concurrent and joint resolutions, other than resolutions ratifying proposed amendments to the United States Constitution and resolutions calling for constitutional conventions, shall be treated in all respects as bills except as follows:

(a) They shall be given only one formal reading in each house.

(b) They shall not be deemed bills within the meaning of subdivision (a) of Section 8 of Article IV of the Constitution.

(c) They shall not be deemed bills for the purposes of Rules 10.8, 53, 55, 56, and 61, and subdivisions (a) and (c) of Rule 54 and subdivisions (a) and (b) of Rule 62.

(d) They shall not, except for those relating to voting procedures on the floor or in committee, be deemed bills for the purposes of subdivision (c) of Rule 62.

PREPARATION AND INTRODUCTION OF BILLS

Title of Bill

7. The title of every bill introduced shall convey an accurate idea of the contents of the bill and shall be indicative of the scope of the act and the object to be accomplished. In amending a code section,

the mere reference to the section by number shall not be deemed sufficient.

Division of Bill Into Sections

8. A bill amending more than one section of an existing law shall contain a separate section for each section amended.

Bills which are not amendatory of existing laws shall be divided into short sections, where this can be done without destroying the sense of any particular section, to the end that future amendments may be made without the necessity of setting forth and repeating sections of unnecessary length.

Digest of Bills Introduced

8.5. No bill shall be introduced unless it is contained in a cover attached by the Legislative Counsel and unless it is accompanied by a digest, prepared and attached to the bill by the Legislative Counsel, showing the changes in the existing law which are proposed by the bill. No bill shall be printed where the body of the bill or the Legislative Counsel's Digest has been altered, unless the alteration has been approved by the Legislative Counsel. If any bill is presented to the Secretary of the Senate or Chief Clerk of the Assembly for introduction, which does not comply with the foregoing requirements of this rule, the Secretary or Chief Clerk shall return it to the member who presented it. The digest shall be printed on the bill as introduced, commencing on the first page thereof.

Digest of Bills Amended

8.6. Whenever a bill is amended in either house, the Secretary of the Senate or the Chief Clerk of the Assembly, as the case may be, shall request the Legislative Counsel to prepare an amended digest and cause it to be printed on the first page of the bill as amended. The digest shall be amended to show changes in the existing law which are proposed by the bill as amended with any material changes in the digest indicated by the use of appropriate type.

Errors in Digest

8.7. If a material error in a printed digest referred to in Rule 8.5 or 8.6 is brought to the attention of the Legislative Counsel, he shall prepare a corrected digest which shall show the changes made in the digest as provided in Rule 10 for amendments to bills. He shall deliver the corrected digest to the Secretary of the Senate or the Chief Clerk of the Assembly, as the case may be. If the correction warrants it in the opinion of the President pro Tempore of the Senate or the Speaker of the Assembly, a corrected print of the bill as introduced shall be ordered with the corrected digest printed

thereon.

Bills Amending Title 9 of the Government Code

8.8. A member who is the first-named author of a bill which would amend, add, or repeal any provision of Title 9 (commencing with Section 81000) of the Government Code, upon introduction or amendment of such bill in either house shall notify the Chief Clerk of the Assembly or the Secretary of the Senate, as the case may be, of the nature of such bill. Thereafter, the Chief Clerk of the Assembly or the Secretary of the Senate shall deliver a copy of such bill as introduced or amended to the Fair Political Practices Commission pursuant to Section 81012 of the Government Code.

Restrictions as to Amendments

9. A substitute or amendment must relate to the same subject as the original bill, constitutional amendment, or resolution under consideration. No amendment shall be in order when all that would be done to the bill is the addition of a coauthor or coauthors, unless the Rules Committee of the house in which such an amendment is to be offered grants prior approval.

Changes in Existing Law to Be Marked by Author

10. In a bill amending or repealing a code section or a general law, any new matter shall be underlined and any matter to be omitted shall be in type bearing a horizontal line through the center and commonly known as "strikeout" type. When printed the new matter shall be printed in italics, and the matter to be omitted shall be printed in "strikeout" type.

In any amendment to a bill which sets out for the first time a section being amended or repealed, any new matter to be added and any matter to be omitted shall be indicated by the author and shall be printed in the same manner as though the section as amended or repealed were a part of the original bill and was being printed for the first time.

When an entire code is repealed as part of a codification or recodification or when an entire title, part, division, chapter, or article of a code is repealed, the sections comprising such code, title, part, division, chapter, or article shall not be set forth in the bill or amendment in strikeout type.

Rereference to Fiscal and Rules Committees

10.5. Bills shall be rereferred to the fiscal committee of each house when they would do any of the following:

(1) Appropriate money.

(2) Result in substantial expenditure of state money by:

(a) imposing new responsibilities on the state or (b) imposing new or additional duties on a state agency or (c) liberalizing any state program, function, or responsibility.

(3) Result in a substantial loss of revenue to the state.

(4) Result in substantial reduction of expenditures of state money by reducing, transferring, or eliminating any existing responsibilities of any state agency, program, or function.

Concurrent and joint resolutions shall be rereferred to the fiscal committee of each house when they contemplate any action which would involve any of the following:

(1) Any substantial expenditure of state money.

(2) Any substantial loss of revenue to the state.

The above requirements do not apply to bills or concurrent resolutions which contemplate the expenditure or allocation of operating funds.

A bill which assigns a study to the Joint Legislative Budget Committee or to the Legislative Analyst shall be rereferred to the respective rules committees. Before the committee shall act upon such bill, it shall obtain from the Joint Legislative Budget Committee an estimate of the amount required to be expended to make the study.

Heading of Bills

10.7. No bill shall indicate in its heading or elsewhere that it was introduced at the request of a state agency or officer or any other person. No bill shall contain the words "By request" or words of similar import.

Consideration of Bills

10.8. The limitation contained in subdivision (a) of Section 8 of Article IV of the Constitution may be dispensed with as follows:

(a) A written request for such dispensation entitled "Request to Consider and Act on Bill Within 30 Calendar Days" shall be filed with the Chief Clerk of the Assembly or the Secretary of the Senate, as the case may be, and transmitted to the Committee on Rules of the appropriate house.

(b) The Committee on Rules of the Assembly or Senate, as the case may be, shall determine whether there exists an urgent need for dispensing with the 30-calendar-day waiting period following the bill's introduction.

(c) If the Committee on Rules recommends that the waiting period be dispensed with, the member may offer a resolution, without further reference thereof to committee, authorizing hearing and action upon the bill before the 30 calendar days have elapsed. The adoption of the resolution shall require an affirmative recorded vote of three-fourths of the elected members of the house in which the resolution is presented.

Printing of Amendments

11. (a) All bills amended by either house shall be immediately reprinted. Except as otherwise provided in subdivision (b), if new matter is added by the amendment, the new matter shall be printed in italics in the printed bill; if matter is omitted, the matter to be omitted shall be printed in strikeout type. When a bill is amended in either house, the first or previous markings shall be omitted.

(b) If amendments to a bill, including the report of a committee on conference, are adopted that omit the entire contents of the bill, the matter omitted need not be reprinted in the amended version of the bill. Instead, the Secretary of the Senate or the Chief Clerk of the Assembly, as the case may be, may select any such amended bill and cause to be printed a brief statement to appear after the last line of the amended bill identifying which previously printed version of the bill contains the complete text of the omitted matter.

Manner of Printing Bills

12. The State Printer shall observe the directions of the Joint Rules Committee in printing all bills, constitutional amendments, and concurrent and joint resolutions.

Distribution of Legislative Publications

13. The Secretary of the Senate and the Chief Clerk of the Assembly shall order a sufficient number of bills and legislative publications as may be necessary for legislative requirements.

No complete list of bills shall be delivered except upon payment therefor of such sum as may be fixed by the Joint Rules Committee for any regular or extraordinary session. No more than one copy of any bill or other legislative publication, nor more than a total of 100 bills or other legislative publications during a session, shall be distributed free to any person, office, or organization. The limitations imposed by this paragraph do not apply to Members of the Legislature, the President of the Senate, the Secretary of the Senate and the Chief Clerk of the Assembly for the proper functioning of their respective houses; the Legislative Counsel Bureau; Attorney General's office; Secretary of State's office; Controller's office; Governor's office; the Clerk of the Supreme Court; the clerk of the court of appeal for each district; the Judicial Council; the California Law Revision Commission; the State Library; the Library of Congress; the libraries of the University of California at Berkeley and at Los Angeles; and accredited members of the press. The State Printer shall fix the cost of such bills and publications, including postage, and such moneys as may be received by him shall, after deducting the cost of handling and mailing, be remitted on the first day of each month, one-half each to the Secretary of the Senate and the Chief Clerk of the Assembly for credit to legislative printing.

Legislative publications heretofore distributed through the Bureau of Documents shall be distributed through the Bill Room. Unless otherwise provided for, the total number of each bill to be printed shall not be more than 2,500.

Legislative Index

13.1. The Legislative Counsel shall provide for the periodic publication of a cumulative Legislative Index which shall include tables of sections affected by pending legislation. The State Printer shall print the Legislative Index in such quantities, and at such times, as are determined by the Secretary of the Senate and the Chief Clerk of the Assembly. The costs of such printing shall be paid from the legislative printing appropriation.

Summary Digest

13.3. The Legislative Counsel shall compile and prepare for publication a summary digest of legislation passed at each regular and extraordinary session, which digest shall be prepared in a form suitable for inclusion in the publication of statutes. The digest shall be printed as a separate legislative publication on the order of the Joint Rules Committee and may be made available to the public in such quantities and at such prices as the Joint Rules Committee may determine.

Statutory Record

13.5. The Legislative Counsel shall prepare for publication from time to time a cumulative statutory record. The statutory record shall be printed as a legislative publication on the order of the Secretary of the Senate or the Chief Clerk of the Assembly.

OTHER LEGISLATIVE PRINTING

Printing of the Daily Journal

14. The State Printer shall print in such quantity as directed by the Secretary of the Senate and the Chief Clerk of the Assembly, copies of the journal of each day's proceedings of each house. At the end of the session he shall also print, as directed by the Secretary of the Senate and the Chief Clerk of the Assembly a sufficient number of copies properly paged after being corrected and indexed by the Secretary of the Senate and the Chief Clerk of the Assembly, to bind in book form as the journal of the respective houses of the Legislature.

What Shall Be Printed in the Journal

15. The following shall always be printed in the journal of each house:

(a) Messages from the Governor and messages from the other house, and the titles of all bills, joint and concurrent resolutions, and constitutional amendments when introduced in, offered to, or acted upon by the house.

(b) Every vote taken in the house, and a statement of the contents of each petition, memorial, or paper presented to the house.

(c) A true and accurate account of the proceedings of the house, when not acting as a Committee of the Whole.

Printing of the Daily File

16. A daily file of bills ready for consideration shall be printed each day for each house when the Legislature is not in joint recess except days when a house does not meet.

Printing of History

17. Each house shall cause to be printed, once each week, a complete history of all bills; constitutional amendments; and concurrent, joint, and house resolutions originating in, considered, or acted upon by the respective houses and committees thereof. A regular form shall be prescribed by the Secretary of the Senate and the Chief Clerk of the Assembly. Such history shall show the action taken upon each measure up to and including the legislative day preceding its issuance. Except for periods when the houses are in joint recess, for each day intervening there shall be printed a daily history showing the consideration given to or action taken upon any measure since the issuance of the complete history.

Authority for Printing Orders

18. The State Printer shall not print for use of either house nor charge to legislative printing any matter other than provided by law or by the rules, except upon a written order signed by the Secretary of the Senate, on behalf of the Senate, or the Chief Clerk of the Assembly or other person authorized by the Assembly, on behalf of the Assembly. Persons authorized to order printing under this rule may, when necessity requires it, order certain matter printed in advance of the regular order, by the issuance of a rush order.

The Secretary of the Senate, on behalf of the Senate, and the Chief Clerk of the Assembly or other person authorized by the Assembly, on behalf of the Assembly, are hereby authorized and directed to order and distribute for the members stationery and legislative publications for which there is a demand, and, subject to the rules of their respective houses, to approve the bills covering such orders. All

bills for printing must be presented by the State Printer within 30 days after the completion of the printing.

RECORD OF BILLS

Secretary and Chief Clerk to Keep Records

19. The Secretary of the Senate and the Chief Clerk of the Assembly shall keep a complete and accurate record of every action taken by the Senate and Assembly on every bill.

Secretary and Chief Clerk Shall Endorse Bills

20. The Secretary of the Senate and the Chief Clerk of the Assembly shall endorse on every original or engrossed bill a statement of any action taken by the Senate or Assembly concerning such bill.

ACTION IN ONE HOUSE ON BILL TRANSMITTED FROM THE OTHER

After a Bill Has Been Passed by the Senate or Assembly

21. When a bill has been passed by either house it shall be transmitted promptly to the other unless a motion to reconsider or a notice of motion to reconsider has been made or it is held pursuant to some rule or order of the house.

The procedure of referring bills to committees shall be determined by the respective houses.

Messages to Be in Writing Under Proper Signatures

22. Notice of the action of either house to the other shall be in writing and under the signature of the Secretary of the Senate or the Chief Clerk of the Assembly from which such message is to be conveyed. A receipt shall be taken from the officer to whom such message is delivered.

Uncontested Bills

22.1. Each standing committee may report an uncontested bill out of committee with the recommendation that it be placed on the consent calendar. The Secretary of the Senate and the Chief Clerk of the Assembly shall provide to each committee chairman or chairwoman appropriate forms for such report. As used in this rule, "uncontested bill" means a bill, except a revenue measure or a measure as to which the 30-day limitation prescribed by subdivision (a) of Section 8 of Article IV of the Constitution has been dispensed with, which: (a) receives a do-pass or do-pass-as-amended

recommendation from the committee to which it is referred, by unanimous vote of the members present provided a quorum is present; and (b) has no opposition expressed by any person present at the committee meeting with respect to the final version of the bill as approved by the committee; and (c) prior to final action by the committee, has been requested by the author to be placed on the consent calendar.

Consent Calendar

22.2. Following their second reading and the adoption of any committee amendments thereto, all bills certified by the committee chairman or chairwoman as uncontested bills shall be placed by the Secretary of the Senate or the Chief Clerk of the Assembly on the consent calendar, and shall be known as "consent calendar bills." Any consent calendar bill which is amended from the floor shall cease to be a consent calendar bill and shall be replaced on the third reading file. Upon objection of any member to the placement or retention of any bill on the consent calendar, such bill shall cease to be a consent calendar bill and shall be replaced on the third reading file. No consent calendar bill shall be considered for adoption until the second legislative day following the day of its placement on the consent calendar.

Consideration of Bills on Consent Calendar

22.3. Bills on the consent calendar are not debatable, except that the President of the Senate or the Speaker of the Assembly shall allow a reasonable time for questions from the floor and shall permit the proponents of such bills to answer such questions. Immediately prior to voting on the first bill on the consent calendar, the President of the Senate or the Speaker of the Assembly shall call to the attention of the members the fact that the next rollcall will be the rollcall on the first bill on the consent calendar.

The consent calendar shall be considered as the last order of business on the daily file.

PASSAGE AND ENROLLING OF BILLS

Procedure on Defeat of More Than Majority Bill

23.5. Whenever a bill containing a section or sections requiring for passage an affirmative recorded vote of more than 21 votes in the Senate and more than 41 votes in the Assembly is being considered for passage and the urgency clause, if the bill is an urgency bill, or the bill, in any case, fails to receive the necessary votes to make all sections effective, no further action may be taken on the bill; provided that an amendment to remove all sections requiring the higher vote for passage from the bill shall be in order prior to

consideration of further business. If the amendment is adopted, the bill shall be reprinted to reflect such amendment. When the bill is reprinted, it shall be returned to the same place on the file as when it failed to receive the necessary votes.

Enrollment of Bill After Passage

24. After a bill has passed both houses it shall be printed in enrolled form, omitting symbols indicating amendments, and shall be compared by the Engrossing and Enrolling Clerk and the proper committee of the house where it originated to determine that it is in the form approved by the houses. The enrolled bill shall thereupon be signed by the Secretary of the Senate and Chief Clerk of the Assembly and, except as otherwise provided by these rules, presented without delay to the Governor. The committee shall report the time of presentation of the bill to the Governor to the house and the record shall be entered in the journal. After enrollment and signature by the officers of the Legislature, constitutional amendments, and concurrent and joint resolutions shall be filed without delay in the office of the Secretary of State and the time of filing shall be reported to the house and the record entered in the journal.

AMENDMENTS AND CONFERENCES

Amendments to Amended Bills Must Be Attached

25. Whenever a bill or resolution which shall have been passed in one house shall be amended in the other, it shall immediately be reprinted as amended by the house making such amendment or amendments. Two copies of such amendment or amendments shall be attached to the bill or resolution so amended, and endorsed "adopted" and such amendment or amendments, if concurred in by the house in which such bill or resolution originated, shall be endorsed "concurred in," and such endorsement shall be signed by the Secretary or Assistant Secretary of the Senate, or the Chief Clerk or Assistant Clerk of the Assembly, as the case may be; provided, however, that an amendment to the title of a bill adopted after the passage of such bill shall not necessitate reprinting, but such amendment must be concurred in by the house in which such bill originated.

Amendments to Concurrent and Joint Resolutions

25.5. When a concurrent or joint resolution is amended, and the only effect of the amendments is to add coauthors, the joint or concurrent resolution shall not be reprinted unless specifically requested by one of the added coauthors, but a list of the coauthors shall appear in the journal and history.

To Concur or Refuse to Concur in Amendments

26. In case the Senate amends and passes an Assembly bill, or the Assembly amends and passes a Senate bill, the Senate (if it be a Senate bill) or the Assembly (if it be an Assembly bill) must either "concur" or "refuse to concur" in the amendments. If the Senate concurs (if it be a Senate bill), or the Assembly concurs (if it be an Assembly bill), the Secretary or Chief Clerk shall notify the house making the amendments and the bill shall be ordered to enrollment.

Reference to Committee

26.5. Pursuant to Rule 26, whenever a bill is returned to its house of origin for a vote on concurrence in an amendment made in the other house, the Legislative Counsel shall promptly prepare and transmit to the Chief Clerk of the Assembly and the Speaker of the Assembly in the case of an Assembly bill, or to the Secretary of the Senate and Chairman of the Senate Committee on Rules in the case of a Senate bill, a brief digest summarizing the effect of the amendment made in the other house. The Secretary or Chief Clerk shall cause the digest to be printed in the Daily File immediately following any reference to the bill covered by the digest. A motion to concur or refuse to concur in the amendment shall not be in order until such time as the Legislative Counsel's Digest has appeared in the file.

If the digest discloses that the amendment of the other house has made a substantial substantive change in the bill as first passed by the house of origin, the bill shall on motion of the Chairman of the Senate Committee on Rules, if it be a Senate bill, be referred to the Senate Committee on Rules for reference to an appropriate standing committee. If the bill is an Assembly bill it shall be referred by the Chief Clerk of the Assembly, with the approval of the Speaker, to the committee of first reference. If the Speaker, upon evaluation of the bill, determines that the committee of first reference is not an appropriate committee to hear the amended bill, the Speaker shall not approve referral to that committee, but shall instead refer the bill to the Assembly Committee on Rules for rereferral.

Upon receipt of such a bill, the committee may vote to recommend concurrence or nonconcurrence in the amendment or the committee may hold the bill. The committee shall be subject to all the requirements for procedure provided under Rule 62 for committees other than for committees of first referral, and such other requirements for normal committee procedure as the Assembly or Senate may separately provide in the standing rules of their respective houses.

Any of the provisions of this rule may be dispensed with regard to a particular bill in its house of origin upon an affirmative vote of a majority of the members of that house.

Concurring in Amendments Adding Urgency Section

27. When a bill which has been passed in one house is amended in the other by the addition of a section providing that the act shall take effect immediately as an urgency statute and is returned to the house in which it originated for concurrence in the amendment or amendments thereto, the procedure and vote thereon shall be as follows:

The presiding officer shall first direct that the urgency section be read and put to a vote. If two-thirds of the members elected to the house vote in the affirmative, the presiding officer shall then direct that the question of whether the house shall concur in the amendment or amendments shall be put to a vote. If two-thirds of all the members elected to the house vote in the affirmative, concurrence in the amendments shall be effective.

If the affirmative vote on either of such questions is less than two-thirds of all the members elected to such house, the effect is a refusal to concur in the amendment or amendments, and the procedure thereupon shall be as provided in Rule 28.

When Senate or Assembly Refuse to Concur

28. If the Senate (if it be a Senate bill) or the Assembly (if it be an Assembly bill) refuses to concur in amendments to the bill made by the other house, and when the other house has been notified of such refusal to concur, a conference committee shall be appointed for each house in the manner prescribed by these rules. The Committee on Rules in the case of the Senate and the Speaker of the Assembly in the case of the Assembly shall each appoint a committee of three on conference, and the Secretary of the Senate or the Chief Clerk of the Assembly shall immediately notify the other house of the action taken.

Committee on Conference

28.1. The Senate Committee on Rules and the Speaker of the Assembly, in appointing a committee on conference, shall each select two members from those voting with the majority on the point about which the difference has arisen, and the other member from the minority, in the event there is a minority vote.

Whether a member has voted with the majority or minority on the point about which the difference has arisen is determined by his vote on the appropriate rollcall, as follows:

(1) In the Assembly—

(a) The rollcall on the question of final passage of a Senate bill amended in the Assembly when the Senate has refused to concur with the Assembly amendments.

(b) The rollcall on the question of concurrence with Senate amendments to an Assembly bill.

(2) In the Senate--

(a) The rollcall on the question of final passage of an Assembly bill amended in the Senate when the Assembly has refused to concur with the Senate amendments.

(b) The rollcall on the question of concurrence with Assembly amendments to a Senate bill.

Meetings and Reports of Committees on Conference

29. The first Senator named on the conference committee shall act as chairman or chairwoman of the committee from the Senate, and the first Member of the Assembly named on such committee shall act as chairman or chairwoman of the committee from the Assembly. The chairman or chairwoman of the committee on conference for the house of origin of the bill shall arrange the time and place of meeting of the conference committee and shall prepare or direct the preparation of reports. It shall require an affirmative vote of not less than two of the Assembly Members and two of the Senate Members constituting the committee on conference to agree upon a report, and the report shall be submitted to both the Senate and the Assembly. The committee on conference shall report to both the Senate and the Assembly. Such report is not subject to amendment, and if either house refuses to adopt such report, the conferees shall be discharged and other conferees appointed; provided, however, that no more than three different conference committees shall be appointed on any one bill. No member who has served on a committee on conference shall be appointed a member of another committee on conference on the same bill. It shall require the same affirmative recorded vote to adopt any conference report as required by the Constitution upon the final passage of the bill affected by such report. It shall require an affirmative recorded vote of two-thirds of the entire elected membership of each house to adopt any conference report affecting any bill which contains an item or items of appropriation which are subject to subdivision (d) of Section 12 of Article IV of the Constitution. The report of a conference committee shall be in writing, and shall have affixed thereto the signatures of each Senator and each Member of the Assembly consenting to the report. Space shall also be provided where a member of a conference committee may indicate his dissent in the committee's findings. Any dissenting member may have attached to a conference committee report a dissenting report which shall not exceed, in length, the majority committee report. A copy of any amendments proposed in the majority report shall be placed on the desk of each member of the house before it is acted upon by the house.

The vote on concurrence or upon the adoption of such conference report shall be deemed the vote upon final passage of such bill.

Conference Committees

29.5. (a) All meetings of any conference committee on the Budget Bill shall be open and readily accessible to the public.

No conference committee on any bill may meet, consider, or act on the subject matter of the bill except in a meeting that is open and readily accessible to the public; unless the action is on a report determined by the Legislative Counsel to be nonsubstantive. The Legislative Counsel shall examine each proposed report and shall note upon the face of the report that the amendments proposed are "substantive" or "nonsubstantive" as the case may be.

The chairman or chairwoman of the conference committee of each house shall give notice to the file clerk of their respective houses of the time and place of such meeting. Notice of each public meeting shall be published in the file of each house one calendar day prior to the meeting, except that such notice shall not be required for a meeting of a conference committee on the Budget Bill. When the provisions of this subdivision are waived with respect to a meeting of any public conference committee, and when there is a meeting of a conference committee on the Budget Bill, every effort shall be made to inform the public that such a meeting has been called. When the provisions of this subdivision have been waived with respect to the meeting of any public conference committee, the chairman or chairwoman of the conference committee of each house shall immediately notify the chairman or chairwoman of the policy committee of their respective houses that considered the bill in question of the waiver, and of the time and place of the meeting.

(b) The first committee on conference of the Budget Bill, if such a committee is appointed, shall submit its report to each house no later than 15 days after the Budget Bill has been passed by both houses. If such report is not submitted by such date, the conference committee shall be deemed to have reached no agreement and shall so inform each house pursuant to Rule 30.7.

(c) A committee on conference of the Budget Bill shall only consider differences between the Assembly version of the Budget Bill as passed by the Assembly and the Senate version of the Budget Bill as passed by the Senate and shall not approve any item of expenditure nor control which exceeds that contained in one of the two versions before the conference committee.

(d) No conference committee on any bill, other than the Budget Bill, shall approve any substantial financial provision in any bill if such financial provision has not been heard by the fiscal committee of each house, nor shall any such conference committee approve substantial policy changes which have not been heard by the policy committee of each house.

(e) No waiver of the one calendar day file notice requirement of subdivision (a) shall be effective for longer than three calendar days.

Conference Committee Reports

30. Upon submission of the report of a committee on conference, if the report recommends that the bill be further amended, the bill shall be reprinted incorporating the amendments recommended by the conference committee. The consideration of the report of a committee on conference shall not be in order until the bill in the form recommended by the report of the committee on conference has both been in print and been noticed in the Daily File for not less than one legislative day.

If the conference committee's report recommends only that the amendments of the Senate or the Assembly "be concurred in", consideration of the report shall be in order at any time, and reprinting of the bill shall not be required, but notice shall appear in the Daily File for not less than one legislative day.

No conference committee report shall be in order unless it has been received by the Secretary of the Senate and the Chief Clerk of the Assembly at least three calendar days preceding the scheduled commencement of the summer, interim, or final recesses of the Legislature.

The provisions of this rule may be suspended as to any particular conference committee report by a two-thirds vote of the membership of either house.

This rule shall not apply to a report of a committee on conference on the Budget Bill.

Conference Committee Reports on Urgency Statutes

30.5. When the report of a committee on conference recommends the amendment of a bill by the addition of a section providing that the act shall take effect immediately as an urgency statute, the procedure and the vote thereon shall be as follows:

The presiding officer shall first direct that the urgency section be read and put to a vote. If two-thirds of the members elected to the house vote in the affirmative, the presiding officer shall then direct that the question of whether the house shall adopt the report of the committee on conference shall be put to a vote. If two-thirds of the members elected to the house vote in the affirmative, the adoption of the report and the amendments proposed thereby shall be effective.

If the affirmative vote on either of such questions is less than two-thirds of the members elected to such house, the effect is a refusal to adopt the report of the committee on conference.

Failure to Agree on Report

30.7. A conference committee may find and determine that it is unable to submit a report to the respective houses, upon the affirmative vote to that effect of not less than two of the Assembly

Members and not less than two of the Senate Members constituting the committee. Such finding may be submitted to the Chief Clerk of the Assembly and the Secretary of the Senate in the form of a letter from the chairman of the committee on conference for the house of origin of the bill, containing the signatures of the members of the committee consenting to the finding and determination that the committee is unable to submit a report. The Chief Clerk of the Assembly and the Secretary of the Senate, upon being notified that a conference committee is unable to submit a report, shall so inform each house, whereupon the conferees shall be discharged and other conferees appointed, in accordance with the provisions of Rule 29.

MISCELLANEOUS PROVISIONS

Authority When Rules Do Not Govern

31. All relations between the houses which are not covered by these rules shall be governed by Mason's Manual (1979 edition).

Press Rules

32. (a) Persons desiring privileges of accredited press representatives shall make application to the Joint Rules Committee. Such application shall constitute compliance with any provisions of the rules of the Assembly or the Senate with respect to registration of news correspondents. Applications shall state in writing the names of the daily newspapers, periodic publications, news associations, or radio or television stations by which the press representatives are employed, and what other occupations or employment they may have, if any, and the press representatives shall further declare that they are not employed, directly or indirectly, to assist in the prosecution of the legislative business of any person, corporation, or association, and will not become so employed while retaining the privilege of accredited press representatives.

(b) The applications required by subdivision (a) of this rule shall be authenticated in a manner that shall be satisfactory to the Standing Committee of the Capitol Correspondents Association which shall see that occupation of seats and desks in the Senate and the Assembly Chambers is confined to bona fide correspondents of reputable standing in their business, who represent daily newspapers requiring a daily file of legislative news, qualified periodic publications, or news associations requiring daily telegraphic or radio or television service on legislative news. It shall be the duty of the standing committee at its discretion, to report violation of accredited press privileges to the Speaker of the Assembly, or to the Senate Committee on Rules, and pending action thereon the offending correspondent may be suspended by the standing committee.

(c) Except as otherwise provided in this subdivision, persons engaged in other occupations whose chief attention is not given to

newspaper correspondence or to news associations requiring telegraphic or radio or television service shall not be entitled to the privileges accorded accredited press representatives; and the press list in the Handbook of the California Legislature and the Senate and Assembly Histories shall be a list only of persons authenticated by the standing committee of correspondents. Accreditation may be granted to bona fide correspondents of reputable standing employed by periodic publications of general circulation, providing that the applicants are employed on a full-time basis in the capitol area preparing articles dealing with state government and politics and that their publications are not organs or organizations involved in legislative advocacy.

(d) The press seats and desks in the Senate and Assembly Chambers shall be under the control of the standing committee of correspondents, subject to the approval and supervision of the Speaker of the Assembly and the Senate Committee on Rules. Press cards shall be issued by the President of the Senate and the Speaker of the Assembly only to correspondents properly accredited in accordance with the provisions of this rule.

(e) One or more rooms shall be assigned for the exclusive use of correspondents during the legislative session, which rooms shall be known as the Press Room. The Press Room shall be under the control of the Chief of the Office of Buildings and Grounds; provided, that all rules and regulations shall be approved by the Senate Committee on Rules and the Speaker of the Assembly.

(f) No accredited member of the Capitol Correspondents Association shall, for compensation, perform any service for state constitutional officers or members of their staffs, for state agencies, for the Legislature, for candidates for state office, or for a state officeholder, or for any person registered or performing as a legislative advocate.

(g) An accredited member of the association who violates subdivision (a) or (f) of this rule shall be subject to the following penalties:

(1) For the first offense, the Standing Committee of the Capitol Correspondents Association shall send a letter of admonition to the offending member, his employer, and the Joint Rules Committee. The letter shall state the nature of the member's rule violation and shall warn of an additional penalty for a second offense.

(2) For a second offense, the Standing Committee of the Capitol Correspondents Association shall recommend to the Joint Rules Committee that the member's accreditation be suspended or revoked and that he lose all rights and privileges attached thereto. The Standing Committee of the Capitol Correspondents Association shall also dismiss the member from the association.

Any member of the Standing Committee of the Capitol Correspondents Association may propose that the committee make an inquiry to determine if an association member has violated subdivision (a) or (f) of this rule. Upon a majority vote of the

Standing Committee of the Capitol Correspondents Association, an inquiry shall be made.

Upon receipt of a signed, written notice from any association member of his belief that another association member may have violated subdivision (a) or (f) of this rule, the Standing Committee of the Capitol Correspondents Association shall commence an inquiry into the possible violation.

If the Standing Committee of the Capitol Correspondents Association determines by majority vote that an association member has broken an association rule, it shall inform the member of its finding. Within two weeks of notification, the member may request a meeting of the membership. If the member makes such a request, the Standing Committee of the Capitol Correspondents Association shall promptly schedule a meeting at the earliest possible time. After hearing the member and the committee review the circumstances of the alleged violation, the membership may, by majority vote, nullify the finding of the Standing Committee of the Capitol Correspondents Association. If nullification does not occur, the Standing Committee of the Capitol Correspondents Association shall impose immediately the appropriate penalty.

Dispensing With Joint Rules

33. No joint rule shall be dispensed with except by a vote of two-thirds of each house, except as otherwise provided in these rules. If either house shall violate a joint rule, a question of order may be raised in the other house and decided in the same manner as in the case of the violation of the rules of such house; and if it shall be decided that the joint rules have been violated, the bill involving such violations shall be returned to the house in which it originated, and such disputed matter be considered in like manner as in conference committee.

Opinions of Legislative Counsel

34. Whenever the Legislative Counsel issues an opinion to any person other than the first-named author analyzing the constitutionality, operation, or effect of a bill or other legislative measure which is then pending before the Legislature or of any amendment made or proposed to be made to such bill or measure, he is authorized and instructed to deliver two copies of the opinion to the first-named author as promptly as feasible after the delivery of the original opinion and also to deliver a copy to any other author of the bill or measure who so requests. A copy of any letter prepared by the Legislative Counsel for the sole purpose of advising a member of a conflict between two or more bills as to the sections of law being amended, repealed, or added shall be submitted to the chairman of the committee to which each such bill has been referred.

Resolutions Prepared by Legislative Counsel

34.1. Whenever the Legislative Counsel has been requested to draft a resolution commemorating or taking note of any event, or a resolution congratulating or expressing sympathy toward any person, and subsequently receives a similar request from another Member of the Legislature, he shall inform that requester and each subsequent requester that such a resolution is being, or has been, prepared, and he shall inform them of the name of the member for whom the resolution was, or is being, prepared.

Resolutions

34.2. A concurrent resolution, Senate resolution, or House resolution may be introduced to memorialize the death of a present or former state or federal elected official or a member of their immediate families. In all other instances, a resolution other than a concurrent resolution, as specified by the Committee on Rules of each house, or as provided by the Joint Rules Committee in those cases which require that such resolution should emanate from both houses, shall be used for the purpose of commendation, congratulation, sympathy, or regret with respect to any person, group, or organization.

No concurrent resolution requesting the Governor to issue a proclamation shall be introduced without the prior approval of the Committee on Rules of the house in which the resolution is to be introduced.

Identical Drafting Requests

34.5. Whenever it shall come to the attention of the Legislative Counsel that a member has requested the drafting of a bill which will be substantially identical to one already introduced, he shall inform such member of that fact.

Expense of Members

35. As provided in Section 8902 of the Government Code, each Member of the Legislature is entitled to reimbursement for living expenses while required to be in Sacramento to attend a session of the Legislature, or while traveling to and from or in attendance at a committee meeting, or while attending to any legislative function or responsibility as authorized or directed by legislative rules or the Committee on Rules of the house of which he or she is a member at the same rate as may be established by the State Board of Control for other elected state officers. Each member shall be reimbursed for travel expenses incurred in traveling to and from a session of the Legislature, or when traveling to and from a meeting of a committee of which he or she is a member, or when traveling pursuant to any

other legislative function or responsibility as authorized or directed by legislative rules or the Committee on Rules of the house of which he or she is a member at the rate prescribed by Section 8903 of the Government Code.

Expense allowances for Members of the Senate and Assembly shall be approved and certified to the Controller by the Secretary of the Senate, on behalf of the Senate, and the Chief Clerk of the Assembly or other person authorized by the Assembly Committee on Rules, on behalf of the Assembly, weekly or as otherwise directed by either house, and upon such certification the Controller shall draw his or her warrants in payment of the allowances to the respective members.

Investigating Committees

36. In order to expedite the work of the Legislature either house, or both houses jointly, may by resolution or statute provide for the appointment of committees to ascertain facts and to make recommendations as to any subject within the scope of legislative regulation or control.

The resolution providing for the appointment of a committee shall state the purpose of the committee, and the scope of the subject concerning which it is to act and may authorize it to act either during sessions of the Legislature or, when such authorization may lawfully be made, after final adjournment.

In the exercise of the power granted by this rule, each committee may employ such clerical, legal, and technical assistants as may be authorized by: (a) the Joint Committee on Rules in the case of a joint committee, (b) the Senate Committee on Rules in the case of a Senate committee, or (c) the Assembly Committee on Rules in the case of an Assembly committee.

Except as otherwise provided herein for joint committees or by the rules of the Senate or the Assembly for single house committees, each committee may adopt and amend such rules governing its procedure as may appear necessary and proper to carry out the powers granted and duties imposed under this rule. Such rules may include provisions fixing the quorum of the committee and the number of votes necessary to take action on any matter. With respect to all joint committees, a majority of the membership from each house constitutes a quorum and an affirmative vote of a majority of the membership from each house is necessary for the committee to take action.

Each such committee is authorized and empowered to summon and subpoena witnesses, require the production of papers, books, accounts, reports, documents, records, and papers of every kind and description, to issue subpoenas, and to take all necessary means to compel the attendance of witnesses and to procure testimony, oral and documentary.

Each member of such committees is authorized and empowered

to administer oaths, and all of the provisions of Chapter 4 (commencing with Section 9400), Part 1, Division 2, Title 2 of the Government Code, relating to the attendance and examination of witnesses before the Legislature and the committees thereof, shall apply to such committees.

The Sergeant at Arms of the Senate or Assembly, or such other person as may be designated by the chairman or chairwoman of the committee, shall serve any and all subpoenas, orders, and other process that may be issued by the committee, when directed to do so by the chairman, chairwoman, or by a majority of the membership of the committee.

Every department. commission, board, agency, officer, and employee of the state government, including the Legislative Counsel and the Attorney General and their subordinates, and of every political subdivision, county, city, or public district of or in this state, shall give and furnish to these committees and to their subcommittees upon request such information, records, and documents as the committees deem necessary or proper for the achievement of the purposes for which each such committee was created.

Each committee or subcommittee of either house in accordance with the rules of that respective house and each joint committee or subcommittee thereof, may meet at any time during the period in which it is authorized to act, either at the State Capitol, or at any other place in the State of California, in public or executive session, and do any and all things necessary or convenient to enable it to exercise the powers and perform the duties herein granted to it or accomplish the objects and purposes of the resolution creating it with the following exceptions:

(a) When the Legislature is not in joint recess:

(1) No committee or subcommittee of either house shall meet outside the State Capitol without the prior approval of the Senate Committee on Rules with respect to Senate committees and subcommittees and the Speaker of the Assembly with respect to Assembly committees and subcommittees.

(2) No committee or subcommittee of either house, other than a standing committee or subcommittee thereof, shall meet unless notice of such meeting has been printed in the daily file for four days prior thereto. This requirement may be waived by a majority vote of either house with respect to a particular bill.

(3) No joint committee or subcommittee thereof, other than the Joint Committees on Legislative Audit, Legislative Budget, Legislative Ethics, and Rules, shall meet outside the State Capitol without the prior approval of the Joint Rules Committee.

(4) No joint committee or subcommittee thereof, other than the Joint Committees on Legislative Audit, Legislative Budget, Legislative Ethics, and Rules, shall meet unless notice of such meeting has been printed in the daily file for four days prior thereto.

(b) When the Legislature is in joint recess each joint committee

or subcommittee, other than the Joint Committees on Legislative Audit, Legislative Budget, Legislative Ethics, and Rules, shall notify the Joint Rules Committee at least two weeks prior to any such meeting.

(c) The requirements placed upon joint committees by subdivisions (a) and (b) of this rule may be waived where it is deemed necessary by the Joint Rules Committee.

Each such committee may expend such money as may be made available to it for such purpose but no committee shall incur any indebtedness unless money shall have been first made available therefor.

No living expenses shall be allowed in connection with legislative business for a day on which the member receives reimbursement for expenses while required to be in Sacramento to attend a session of the Legislature. The chairman or chairwoman of each committee shall audit and approve the expense claims of the members of the committee, including claims for mileage in connection with attendance on committee business, or in connection with specific assignments by the committee chairman or chairwoman, but excluding other types of mileage, and shall certify the amount approved to the Controller, and the Controller shall draw his warrants upon the certification of the chairman or chairwoman.

Subject to the rules of each house for the respective committees of each house, and subject to the joint rules for any joint committee, the chairman or chairwoman of any such committee may appoint subcommittees and chairmen or chairwomen thereof for the purpose of more expeditiously handling and considering matters referred to it, and such subcommittees and the chairmen or chairwomen thereof shall have all the powers and authority herein conferred upon the committee and its chairman or chairwoman. The chairman or chairwoman of such subcommittee shall audit the expense claims of the members of such subcommittees and other claims and the expenses incurred by it and shall certify the amount thereof to the chairman or chairwoman of the committee who shall, if he approves the same, certify the amount thereof to the Controller, and the Controller shall draw his warrant therefor upon such certification, and the Treasurer shall pay the same. Whenever such committee or any subcommittee thereof is authorized to leave the State of California in the performance of its duties, then such committee or subcommittee shall, while out of the state, have the same authority as if it were acting and functioning within the state, and the members thereof shall be reimbursed for expenses.

Notwithstanding any provision of this rule, if the standing rules of either house require that expense claims of committees for goods or services or pursuant to contracts or for expenses of employees or members of committees be audited or approved, after approval of the committee chairman or chairwoman, by another agency of either house, the Controller shall draw his warrants only upon the certification of such other agency. All expense claims approved by

the chairman or chairwoman of any joint committee, other than the Joint Legislative Budget Committee and the Joint Legislative Audit Committee, shall be approved by the Joint Rules Committee and the Controller shall draw his warrants only upon the certification of the Joint Rules Committee.

Except salary claims of employees clearly subject to federal withholding taxes and the requirement as to loyalty oaths, claims presented for services or pursuant to contract shall refer to the agreement, the terms of which shall be made available to the Controller.

Expenses of Committee Employees

36.1. Unless otherwise provided by respective house or committee rule or resolution, employees of legislative committees shall, when entitled to traveling expenses, be entitled to allowances in lieu of actual expenses for hotel accommodations, breakfast, lunch, and dinner, at the rates fixed by the Board of Control from time to time in limitation of reimbursement of expenses of state employees generally; provided, that if an allowance for hotel accommodations, breakfast, lunch, and dinner is made by a committee at a rate in excess of those fixed by the Board of Control the chairman or chairwoman of the committee shall notify the Controller of that fact in writing.

Appointment of Committees

36.5. The provisions of this rule shall apply whenever a joint committee is created by a statute or resolution which either provides that appointments be made and vacancies be filled in the manner provided for in the Joint Rules, or which makes no provision for the appointment of members or the filling of vacancies.

The Senate members of the committee shall be appointed by the Senate Committee on Rules; the Assembly members of the committee shall be appointed by the Speaker of the Assembly; and vacancies occurring in the membership of the committee shall be filled by the respective appointing powers. The members appointed shall hold over until their successors are regularly selected.

Appointment of Joint Committee Chairmen or Chairwomen

36.7. The chairman or chairwoman of each joint committee heretofore or hereafter created, except the Joint Legislative Budget Committee and the Joint Legislative Audit Committee, shall be appointed by the Joint Rules Committee from a member or members recommended by the Senate Committee on Rules and the Speaker of the Assembly.

Joint Committee Funds

36.8. Each joint committee, heretofore or hereafter created, except the Joint Legislative Budget Committee and the Joint Legislative Audit Committee, shall expend the funds heretofore or hereafter made available to it in compliance with the policies set forth by the Joint Rules Committee with respect to personnel, salaries, purchasing, office space assignment, contractual services, rental or lease agreements, travel, and any and all other matters relating to the management and administration of committee affairs.

Joint Legislative Budget Committee

37. In addition to any other committee provided for by these rules, there shall be a joint committee to be known and called the Joint Legislative Budget Committee, which is hereby declared to be a continuing body.

It shall be the duty of the committee to ascertain facts and make recommendations to the Legislature and to the houses thereof concerning the state budget, the revenues and expenditures of the state, and the organization and functions of the state, its departments, subdivisions and agencies, with a view of reducing the cost of the state government and securing greater efficiency and economy.

The committee shall consist of seven Members of the Senate and seven Members of the Assembly. The Senate members of the committee shall consist of seven Members of the Senate appointed by the Senate Committee on Rules. The Assembly members of the committee shall consist of seven Members of the Assembly appointed by the Speaker of the Assembly. The committee shall select its own chairman or chairwoman.

Any vacancies occurring between regular sessions in the Senate membership of the Joint Legislative Budget Committee shall be filled by the Senate Committee on Rules, and the Senators appointed shall hold over until their successors are regularly selected. For the purposes of this rule, a vacancy shall be deemed to exist as to a Senator whose term is expiring whenever he is not reelected at the general election.

Any vacancies occurring between regular sessions in the Assembly membership of the Joint Legislative Budget Committee shall be filled by the Speaker of the Assembly, and the Members of the Assembly appointed shall hold over until their successors are regularly selected. For the purposes of this rule, a vacancy shall be deemed to exist as to a Member of the Assembly whose term is expiring whenever he is not reelected at the general election.

Any vacancy occurring at any time in the Assembly membership of the committee shall be filled by appointment by the Speaker. The committee shall have the authority to make rules to govern its own proceedings and its employees. It may also create subcommittees

from its membership, assigning to its subcommittees any study, inquiry, investigation, or hearing which the committee itself has authority to undertake or hold and the subcommittee for the purpose of this assignment shall have and may exercise all the powers conferred upon the committee, limited only by the express terms of any rule or resolution of the committee defining the powers and duties of the subcommittee. Such powers may be withdrawn or terminated at any time by the committee.

The Joint Legislative Budget Committee may render services to any investigating committee of the Legislature pursuant to contract between the Joint Legislative Budget Committee and the committee for which the services are to be performed. The contract may provide for payment to the Joint Legislative Budget Committee of the cost of such services from the funds appropriated to the contracting investigating committee. All legislative investigating committees are authorized to enter into such contracts with the Joint Legislative Budget Committee. Money received by the Joint Legislative Budget Committee pursuant to any such agreement shall be in augmentation of the current appropriation for the support of the Joint Legislative Budget Committee.

The provisions of Rule 36 shall apply to the Joint Legislative Budget Committee, and it shall have all the authority provided in such rule or pursuant to Section 11 of Article IV of the Constitution.

The committee shall have authority to appoint a Legislative Analyst, to fix his compensation and to prescribe his duties, and to appoint such other clerical and technical employees as may appear necessary. The duties of the Legislative Analyst shall be as follows:

(1) To ascertain the facts and make recommendations to the Joint Legislative Budget Committee and under its direction to the committees of the Legislature concerning:

(a) The state budget.

(b) The revenues and expenditures of the state.

(c) The organization and functions of the state, its departments, subdivisions, and agencies.

(2) To assist the Senate Budget and Fiscal Review Committee and the Assembly Ways and Means Committee in consideration of the budget and all bills carrying express or implied appropriations and all legislation affecting state departments and their efficiency; to appear before any other legislative committee; and to assist any other legislative committee upon instruction by the Joint Legislative Budget Committee.

(3) To provide all legislative committees and Members of the Legislature with information obtained under the direction of the Joint Legislative Budget Committee.

(4) To maintain a record of all work performed by the Legislative Analyst under the direction of the Joint Legislative Budget Committee and to keep and make available all documents, data, and reports submitted to him by any Senate, Assembly, or joint committee. The committee may meet either during sessions of the

Legislature, any recess thereof, or after final adjournment, and may meet or conduct business at any place within the State of California.

The chairman or chairwoman of the committee or, in the event of such person's inability to act, the vice chairman or vice chairwoman, shall audit and approve the expenses of members of the committee or salaries of the employees, and all other expenses incurred in connection with the performance of its duties by the committee, and the chairman or chairwoman shall certify the amount approved to the Controller, and the Controller shall draw his warrants upon the certification of the chairman or chairwoman, and the Treasurer shall pay the same to the chairman or chairwoman of the committee to be disbursed by the chairman or chairwoman.

On and after the commencement of a succeeding regular session those members of the committee who continue to be Members of the Senate and Assembly, respectively, continue as members of the committee until their successors are appointed, and the committee continues with all its powers, duties, authority, records, papers, personnel, and staff, and all funds theretofore made available for its use.

Upon the conclusion of its work, any Assembly, Senate, or joint committee (other than a standing committee) shall deliver to the Legislative Analyst for use and custody all documents, data, reports, and other materials that have come into the possession of such committee and which are not included within the final report of such committee to the Assembly, Senate, or the Legislature, as the case may be. Such documents, data, reports, and other materials shall be available to Members of the Legislature, the Senate Office of Research, and the Assembly Office of Research, upon request.

The Legislative Analyst with the consent of the committee shall make available to any Member or committee of the Legislature any other reports, records, documents, or other data under his control, except that reports prepared by the Legislative Analyst in response to a request from a Member or committee of the Legislature shall only be made available with the written permission of the Member or committee who made the request.

The Legislative Analyst, upon the receipt of a request from any committee or Member of the Legislature to conduct a study or provide information which falls within the scope of his responsibilities and which concerns the administration of the government of the State of California, shall at once advise the Joint Legislative Budget Committee of the nature of the request without disclosing the name of the member or committee making the request.

The Legislative Analyst shall immediately undertake to provide the requesting committee or legislator with the service or information requested, and shall inform the committee or legislator of the approximate date when this information will be available. Should there be any material delay, he shall subsequently communicate this fact to the requester.

Neither the Committee on Rules of either house nor the Joint Rules Committee shall assign any matter for study to the Joint Legislative Budget Committee or the Legislative Analyst without first obtaining from the Joint Legislative Budget Committee an estimate of the amount required to be expended by it to make the study.

Any concurrent, joint, Senate, or House resolution assigning a study to the Joint Legislative Budget Committee or to the Legislative Analyst shall be referred to the respective rules committees. Before the committees shall act upon or assign such resolution, they shall obtain an estimate from the Joint Legislative Budget Committee of the amount required to be expended to make the study.

Citizen Cost Impact Report

37.1. Any Member or committee of the Legislature may recommend that the Legislative Analyst prepare a citizen cost impact analysis on proposed legislation. However, such a recommendation shall first be reviewed by the Committee on Rules of the house where the recommendation originated, and this committee shall make the final determination as to which bills shall be assigned for preparation of an impact analysis.

In selecting specific bills for assignment to the Legislative Analyst for preparation of citizen cost impact analyses, the Committee on Rules shall request the Legislative Analyst to present an estimate of his time and prospective costs for preparing the analyses. Only those bills which have a potential significant cost impact shall be assigned. Where necessary, the Committee on Rules shall provide funds to offset added costs incurred by the Legislative Analyst.

The citizen cost impact analyses shall include those economic effects which the Legislative Analyst deems significant and which he believes will result directly from the proposed legislation. Insofar as feasible, the Legislative Analyst shall consider, but not be limited to consideration of, the following:

(a) The economic effect on the public generally.

(b) Any specific economic effect on persons or businesses in the case of legislation which is regulatory.

The Legislative Analyst shall submit the citizen cost impact analyses when completed to the committee or committees and at the time or times designated by the Committee on Rules.

The Legislative Analyst shall submit from time to time, but at least once a year, a report to the Legislature on the trends and directions of the state's economy, and shall list the alternatives and make recommendations as to legislative actions which, in his judgment, will insure a sound and stable state economy.

Joint Legislative Audit Committee

37.3. The Joint Legislative Audit Committee is created pursuant to the Legislature's rulemaking authority and specific constitutional authority by Chapter 4 (commencing with Section 10500), Part 2, Division 2, Title 2 of the Government Code. The committee shall consist of seven Members of the Senate and seven Members of the Assembly who shall be selected in the manner provided for in these rules, of which one shall be the chairman of the fiscal committee for the Senate and one the chairman of the fiscal committee for the Assembly. Notwithstanding anything to the contrary in these rules, four members from each house constitute a quorum and the number of votes necessary to take action on any matter. The Chairman of the Joint Legislative Audit Committee, upon receiving a request by any Member of the Legislature or committee thereof for a copy of a report prepared or being prepared by the Auditor General, shall provide the member or committee with a copy of such report when it is, or has been, submitted by the Auditor General to the Joint Legislative Audit Committee.

Study or Audits

37.4. (a) Notwithstanding any other provision of law to the contrary, the Joint Legislative Audit Committee shall establish priorities and assign all work to be done by the Auditor General.

(b) Any bill requiring action by the Auditor General shall contain an appropriation for the cost of any study or audit.

(c) Any bill or concurrent, joint, Senate, or House resolution assigning a study to the Joint Legislative Audit Committee or to the Auditor General shall be referred to the respective rules committees. Before the committees shall act upon or assign the bill or resolution, they shall obtain an estimate from the Joint Legislative Audit Committee of the amount required to be expended to make the study.

Waiver

37.5. The provisions of subdivision (b) of Rule 37.4 may be waived by the Joint Legislative Audit Committee. The chairman of the committee shall notify the Secretary of the Senate, the Chief Clerk of the Assembly, and the Legislative Counsel in writing when the provisions of subdivision (b) of Rule 37.4 have been waived. If the cost of a study or audit is less than one hundred thousand dollars ($100,000), the chairman of the committee may exercise the committee's authority to waive the provisions of subdivision (b) of Rule 37.4.

Administrative Regulations

37.7. (a) Any Member of the Senate may request the Senate Committee on Rules, and any Member of the Assembly may request the Speaker of the Assembly, to direct a standing committee or the Office of Research of their respective house to study any proposed or existing regulation or group of related regulations. Upon receipt of such a request, the Senate Committee on Rules or the Speaker of the Assembly shall, after review, determine whether such a study shall be made. In reviewing the request, the Senate Committee on Rules or the Speaker of the Assembly shall determine:

(1) The cost of making such a study.

(2) The potential public benefit to be derived from such a study.

(3) The scope of the study.

(b) The study may consider, among other relevant issues, whether the proposed or existing regulation:

(1) Exceeds the agency's statutory authority.

(2) Fails to conform to the legislative intent of the enabling statute.

(3) Contradicts or duplicates other regulations adopted by federal, state, or local agencies.

(4) Involves an overdelegation of regulatory authority to a particular state agency.

(5) Unfairly burdens particular elements of the public.

(6) Imposes social or economic costs which outweigh its intended benefits to the public.

(7) Imposes unreasonable penalties for violation.

The respective reviewing unit shall in a timely manner transmit its concerns, if any, to the Senate Committee on Rules or the Speaker of the Assembly, and the promulgating agency.

In the event that a state agency takes a regulatory action which the reviewing unit finds unacceptable, the unit shall file a report for publication in the daily journal of its respective house indicating the specific reasons why the regulatory action should not have been taken. The report may include a recommendation that the Legislature adopt a concurrent resolution requesting the state agency to reconsider its action or that the Legislature enact a statute to restrict the regulatory powers of the state agency taking the action.

Designating Legislative Sessions

39. All extraordinary sessions shall be designated in numerical order by the session in which convened.

Joint Rules Committee

40. The Joint Rules Committee is hereby created. The committee has a continuing existence and may meet, act, and conduct its

business during sessions of the Legislature or any recess thereof.

The committee shall consist of the members of the Assembly Committee on Rules, the Assembly Majority Floor Leader, the Assembly Minority Floor Leader, the Speaker of the Assembly, and four members of the Senate Committee on Rules, and as many Members of the Senate as may be required to maintain equality in the number of Assembly Members and Senators on the committee, to be appointed by the Senate Committee on Rules. Vacancies occurring in the membership shall be filled by the appointing power.

The committee and its members shall have and exercise all of the rights, duties, and powers conferred upon investigating committees and their members by the provisions of the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to this committee and its members.

The committee shall ascertain facts and make recommendations to the Legislature and to the houses thereof concerning:

(a) The relationship between the two houses and procedures calculated to expedite the affairs of the Legislature by improving that relationship.

(b) The legislative branch of the state government and any defects or deficiencies in the law governing that branch.

(c) Methods whereby legislation is proposed, considered, and acted upon.

(d) The operation of the Legislature, and the committees thereof, and the means of coordinating the work thereof and avoiding duplication of effort.

(e) Aids to the Legislature.

(f) Information and statistics for the use of the Legislature, and respective houses thereof, and the members.

Any matter of business of either house, the transaction of which would affect the interests of the other house, may be referred to the committee for action if the Legislature is not in recess, and shall be referred to the committee for action if the Legislature is in recess.

The committee has the following additional powers and duties:

(a) To select a chairman or chairwoman from its membership. The vice chairman or vice chairwoman of the committee shall be one of the Senate members of the committee, to be selected by the Senate Committee on Rules.

(b) To allocate space in the State Capitol Building and all annexes and additions thereto as provided by law.

(c) To approve, as provided by law, the appearance of the Legislative Counsel in litigation.

(d) To contract with such other agencies, public or private, as it deems necessary for the rendition and affording of such services, facilities, studies, and reports to the committee as will best assist it to carry out the purposes for which it is created.

(e) To cooperate with and secure the cooperation of county, city, city and county, and other local law enforcement agencies in

investigating any matter within the scope of this rule and to direct the sheriff of any county to serve subpoenas, orders, and other process issued by the committee.

(f) To report its findings and recommendations, including recommendations for the needed revision of any and all laws and constitutional provisions relating to the Legislature, to the Legislature and to the people from time to time and at any time.

(g) The committee, and any subcommittee when so authorized by the committee, may meet and act without as well as within the State of California, and is authorized to leave the state in the performance of its duties.

(h) To expend such funds as may be made available to it to carry out the functions and activities related to the legislative affairs of the Senate and Assembly.

(i) To appoint a chief administrative officer of the committee, who shall have such duties relating to the administrative, fiscal, and business affairs of the committee as the committee shall prescribe. The committee may terminate the services of the chief administrative officer at any time.

(j) To employ such persons as may be necessary to assist all other joint committees, except the Joint Legislative Budget Committee and the Joint Legislative Audit Committee, in the exercise of their powers and performance of their duties. In accordance with Rule 36.8, the committee shall govern and administer the expenditure of funds by such other joint committees, requiring that the claims of such joint committees be approved by the Joint Rules Committee or its designee. All expenses of the committee as well as expenses of all other joint committees may be paid from the Operating Funds of the Assembly and Senate.

(k) To appoint the chairmen or chairwomen of joint committees, as authorized by Rule 36.7.

(*l*) To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this rule.

The members of the Joint Rules Committee from the Senate may meet separately as a unit, and the members of the Joint Rules Committee from the Assembly may meet separately as a unit, and consider any action which is required to be taken by the Joint Rules Committee. If the majority of members of the Joint Rules Committee of each house at the separate meetings vote in favor of such action, the action shall be deemed to be action taken by the Joint Rules Committee.

The Joint Rules Committee shall meet not less than biweekly during a session of the Legislature, other than during a joint recess, at a regularly scheduled time and place. If the full committee fails to so meet, the members of the committee from the Senate shall meet separately as a unit and the members of the committee from the Assembly shall meet separately as a unit within five days of the regularly scheduled meeting date.

The committee shall succeed to, and is vested with, all of the powers and duties of the Joint Committee on Legislative Organization, State Capitol Committee, the Joint Committee on Interhouse Cooperation, the Joint Legislative Committee for School Visitations, and the Joint Standing Committee on the Joint Rules of the Senate and the Assembly.

Review of Administrative Regulations

40.1. The Joint Rules Committee, with regard to joint committees, and the respective rules committee of each house, with regard to standing and select committees of the house, shall approve any request for a priority review made by a committee pursuant to Section 11340.15 of the Government Code and shall submit approved requests to the Office of Administrative Law. The Joint Rules Committee or the respective rules committee, and the committee initiating the request, shall each receive a copy of the priority review.

Subcommittee on Legislative Space and Facilities

40.3. (a) A subcommittee of the Joint Rules Committee is hereby created to be known as the Subcommittee on Legislative Space and Facilities. The subcommittee shall consist of three Members of the Senate and three Members of the Assembly, appointed by the Chairman of the Joint Rules Committee, and the chairman of the fiscal committee of each house who shall have full voting rights on the subcommittee. The chairman of the subcommittee shall be appointed by the members thereof. For purposes of this subcommittee, the chairmen of the fiscal committees shall be ex officio members of the Joint Rules Committee, but shall not have voting rights on that committee, nor shall they be counted in determining a quorum. The subcommittee shall consider the housing of the Legislature and legislative facilities.

(b) The subcommittee and its members shall have and exercise all of the rights, duties, and powers conferred upon investigating committees and their members by the provisions of the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to this subcommittee and its members.

(c) The subcommittee has the following additional powers and duties:

(1) To contract with such other agencies, public or private, as it deems necessary for the rendition and affording of such services, facilities, studies, and reports to the subcommittee as will best assist it to carry out the purposes for which it is created.

(2) To cooperate with and secure the cooperation of county, city, city and county, and other local law enforcement agencies in investigating any matter within the scope of this rule and to direct the sheriff of any county to serve subpoenas, orders, and other

process issued by the subcommittee.

(3) To report its findings and recommendations to the Legislature and to the people from time to time and at any time.

(4) To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this rule.

(d) The subcommittee is authorized to leave the State of California in the performance of its duties.

Subcommittee on Legislative Assistance

40.5. A subcommittee of the Joint Rules Committee is hereby created to be known as the Subcommittee on Legislative Assistance. The Chairman or Chairwoman of the Joint Rules Committee shall appoint one member of the Joint Rules Committee from each house to be members of the subcommittee.

The subcommittee shall have the duty and responsibility of offering such assistance as may be desired by Members of the Legislature, former members, and their families and rendering such aid and assistance as is possible through the offices of the Sergeants at Arms and other officers and employees of the Legislature in the event of the death of a member, former member, or a member of their families.

The Sergeants at Arms and other officers and employees of each house of the Legislature shall render such aid or assistance as may be requested or directed by the subcommittee.

The Joint Rules Committee shall allocate to the subcommittee, from any funds available therefor, such funds as may be required to carry out its functions.

Claims for Workers' Compensation

41. The Chairman or Chairwoman of the Committee on Rules of each house, or a designated representative, shall sign any required worker's compensation report regarding injuries or death arising out of and within the course of employment suffered by any member, officer, or employee of the house, or any employee of a standing or investigating committee thereof. In the case of a joint committee, the Chairman or Chairwoman of the Committee on Rules of either house, or a designated representative, may sign any such report with respect to a member or employee of such joint committee.

Information Concerning Committees

42. The Committee on Rules of each house shall provide for a continuous cumulation of information concerning the membership, organization, meetings, and studies of legislative investigating committees. Each Committee on Rules shall be responsible for information concerning the investigating committees of its own

house and concerning joint investigating committees under the chairmanship of a member of that house. To the extent possible, each Committee on Rules shall seek to insure that the investigating committees for which it has responsibility under this rule have organized, including the organization of any subcommittees, and have had all topics for study assigned to them within a reasonable period of time.

The information thus cumulated shall be made available to the public by the Committee on Rules of each house and shall be published periodically under their joint direction.

Joint Committees

43. Concurrent resolutions creating joint committees of the Legislature and concurrent resolutions allocating moneys from the Operating Funds of the Assembly and Senate to such committees shall be referred to the Committee on Rules of the respective houses.

Conflict of Interest

44. (a) No Member of the Legislature shall, while serving as such, have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity, or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his or her duties in the public interest and of his or her responsibilities as prescribed by the laws of this state.

(b) No Member of the Legislature shall, during the term for which he or she was elected:

(1) Accept other employment which he or she has reason to believe will either impair his or her independence of judgment as to his or her official duties or require him or her, or induce him or her, to disclose confidential information acquired by him or her in the course of and by reason of his or her official duties.

(2) Willfully and knowingly disclose, for pecuniary gain, to any other person, confidential information acquired by him or her in the course of and by reason of his or her official duties or use any such information for the purpose of pecuniary gain.

(3) Accept or agree to accept, or be in partnership with any person who accepts or agrees to accept, any employment, fee, or other thing of value, or portion thereof, in consideration of his or her appearance, agreeing to appear, or taking any other action on behalf of another person regarding a licensing or regulatory matter, before any state board or agency which is established by law for the primary purpose of licensing or regulating the professional activity of persons licensed, pursuant to state law; provided, that this rule shall not be construed to prohibit a member who is an attorney at law from practicing in such capacity before the Workers' Compensation Appeals Board or the Commissioner of Corporations, and receiving compensation therefor, or from practicing for compensation before

any state board or agency in connection with, or in any matter related to, any case, action, or proceeding filed and pending in any state or federal court; and provided that this rule shall not act to prohibit a member from making inquiry for information on behalf of a constituent before a state board or agency, if no fee or reward is given or promised in consequence thereof, and provided that the prohibition contained in this rule shall not apply to a partnership in which the Member of the Legislature is a member if the Member of the Legislature does not share directly or indirectly in the fee resulting from the transaction; and provided that the prohibition contained in this rule shall not apply in connection with any matter pending before any state board or agency on the operative date of this rule if the affected Member of the Legislature is attorney of record or representative in the matter prior to such operative date.

(4) Receive or agree to receive, directly or indirectly, any compensation, reward, or gift from any source except the State of California for any service, advice, assistance, or other matter related to the legislative process, except fees for speeches or published works on legislative subjects and except, in connection therewith, reimbursement of expenses for actual expenditures for travel and reasonable subsistence for which no payment or reimbursement is made by the State of California.

(5) Participate, by voting or any other action, on the floor of either house, or in committee or elsewhere, in the enactment or defeat of legislation in which he or she has a personal interest, except as follows:

(i) If, on the vote for final passage by the house of which he or she is a member, of the legislation in which he or she has a personal interest, he or she first files a statement (which shall be entered verbatim on the journal) stating in substance that he or she has a personal interest in the legislation to be voted on and notwithstanding such interest, he or she is able to cast a fair and objective vote on such legislation, he or she may cast his or her vote without violating any provision of this rule;

(ii) If the member believes that, because of his or her personal interest, he or she should abstain from participating in the vote on the legislation, he or she shall so advise the presiding officer prior to the commencement of the vote and shall be excused from voting on the legislation without any entry on the journal of the fact of his or her personal interest. In the event a rule of the house, requiring that each member who is present vote aye or nay is invoked, the presiding officer shall order the member excused from compliance and shall order entered on the journal a simple statement that the member was excused from voting on the legislation pursuant to law.

(c) A person subject to this rule has an interest which is in substantial conflict with the proper discharge of his or her duties in the public interest and of his or her responsibilities as prescribed in the laws of this state or a personal interest, arising from any situation, within the scope of this rule, if he or she has reason to believe or

expect that he or she will derive a direct monetary gain or suffer a direct monetary loss, as the case may be, by reason of his or her official activity. He or she does not have an interest which is in substantial conflict with the proper discharge of his or her duties in the public interest and of his or her responsibilities as prescribed by the laws of this state or a personal interest, arising from any situation, within the scope of this rule, if any benefit or detriment accrues to him or her as a member of a business, profession, occupation, or group to no greater extent than any other member of such business, profession, occupation, or group.

(d) A person subject to the provisions of this rule shall not be deemed to be engaged in any activity which is in substantial conflict with the proper discharge of his or her duties in the public interest and of his or her responsibilities as prescribed by the laws of this state, arising from any situation, or to have a personal interest, arising from any situation, within the scope of this rule, solely by reason of any of the following:

(1) His or her relationship to any potential beneficiary of any situation is one which is defined as a remote interest by Section 1091 of the Government Code or is otherwise not deemed to be a prohibited interest by Section 1091.1 or 1091.5 of the Government Code.

(2) Receipt of a campaign contribution regulated, received, reported, and accounted for pursuant to Chapter 4 (commencing with Section 84100) of Title 9 of the Government Code, so long as the contribution is not made on the understanding or agreement, in violation of law, that the person's vote, opinion, judgment, or action will be influenced thereby.

(e) The enumeration in this rule of specific situations or conditions which are deemed not to result in substantial conflicts with the proper discharge of the duties and responsibilities of a legislator or legislative employee or in a personal interest shall not be construed as exclusive.

The Legislature in adopting this rule recognizes that Members of the Legislature and legislative employees may need to engage in employment, professional, or business activities other than legislative activities, in order to maintain a continuity of professional or business activity, or may need to maintain investments, which activities or investments do not conflict with the specific provisions of this rule. However, in construing and administering the provisions of the rule, weight should be given to any coincidence of income, employment, investment, or other profit from sources which may be identified with the interests represented by those sources which are seeking action of any character on matters then pending before the Legislature.

(f) No employee of either house of the Legislature shall, during the time he is so employed, commit any act or engage in any activity prohibited by any part of this rule.

(g) No person shall induce or seek to induce any Member of the

Legislature to violate any part of this rule.

(h) Violations of any part of this rule are punishable as provided in Section 8926 of the Government Code.

Joint Legislative Ethics Committee

45. (a) The Joint Legislative Ethics Committee is hereby created. The committee shall consist of three Members of the Senate appointed by the Senate Committee on Rules and three Members of the Assembly appointed by the Speaker of the Assembly. Of the three members appointed from each house, at least one from each house shall be a member of the political party having the largest number of members in that house and at least one from each house shall be a member of the political party having the second largest number of members in that house. The committee shall elect its own chairman or chairwoman. Vacancies occurring in the membership of the committee shall be filled in the manner provided for in these rules for other committees. A vacancy shall be deemed to exist as to any member of the committee whose term is expiring whenever such member is not reelected at the general election.

(b) The committee is authorized to make rules governing its own proceedings. The provisions of Rule 36 relating to investigating committees shall apply to the committee.

Prior to the issuance of any subpoena by the committee with respect to any matter before the committee, it shall by a resolution adopted by a vote of two members of the committee from each house of the Legislature define the nature and scope of its investigation in the matter before it.

(c) Funds for the support of the committee shall be provided from the Operating Funds of the Assembly and the Senate in the same manner that such funds are made available to other joint committees of the Legislature.

(d) The committee shall have power, pursuant to the provisions of this rule, to investigate and make findings and recommendations concerning alleged violations by Members of the Legislature of the provisions of Rule 44.

(e) Any person may: (1) file with the committee a verified complaint in writing which shall state the name of the Member of the Legislature alleged to have committed the violation complained of, and which shall set forth the particulars thereof, or (2) file a complaint concerning the alleged violation by a Member of the Legislature with the district attorney of the appropriate county.

If a person files a complaint with respect to any alleged violation by a Member of the Legislature with the committee, he or she may not thereafter file a complaint to institute a criminal prosecution for such violation until the committee has rendered its report or until a period of 120 days has elapsed since the filing of the complaint. If a complaint is filed with the appropriate district attorney by any person concerning an alleged violation by a Member of the

Legislature of any provision of Rule 44, such person may not thereafter file a complaint with respect to such alleged violation with the committee.

If a complaint is filed with the committee, the committee shall promptly send a copy of the complaint to the Member of the Legislature alleged to have committed the violation complained of, who shall thereafter be designated as the respondent.

No complaint may be filed with the committee after the expiration of six months from the date upon which the alleged violation occurred.

(f) If the committee determines that the verified complaint does not allege facts, directly or upon information and belief, sufficient to constitute a violation of any of the provisions of Rule 44, it shall dismiss the complaint and notify the complainant and respondent thereof. If the committee determines that such verified complaint does allege facts, directly or upon information and belief, sufficient to constitute a violation of any of the provisions of Rule 44, the committee shall promptly investigate the alleged violation and if, after such preliminary investigation, the committee finds that probable cause exists for believing the allegations of the complaint, it shall fix a time for a hearing in the matter, which shall be not more than 30 days after such finding. If, after the preliminary investigation, the committee finds that probable cause does not exist for believing the allegations of the complaint, the committee shall dismiss the complaint. In either event, the committee shall notify the complainant and respondent of its determination.

(g) After the complaint has been filed, the respondent shall be entitled to examine and make copies of all evidence in the possession of the committee relating to the complaint.

(h) If a hearing is to be held pursuant to subdivision (f) of this rule, the committee, before the hearing has commenced, shall issue subpoenas and subpoenas duces tecum at the request of any party in accordance with the provisions of Chapter 4 (commencing with Section 9400), Part 1, Division 2, Title 2 of the Government Code. All of the provisions of Chapter 4, except Section 9410, shall be applicable to the committee and the witnesses before it.

(i) At any hearing held by the committee:

(1) Oral evidence shall be taken only on oath or affirmation.

(2) Each party shall have these rights: to be represented by legal counsel; to call and examine witnesses; to introduce exhibits; and to cross-examine opposing witnesses.

(3) The hearing shall be open to the public.

(j) Any official or other person whose name is mentioned at any investigation or hearing of the committee and who believes that testimony has been given which adversely affects him, shall have the right to testify or, at the discretion of the committee, to file a statement of facts under oath relating solely to the material relevant to the testimony of which he complains.

(k) After the hearing the committee shall state its findings of fact.

If the committee finds that the respondent has not violated any of the provisions of Rule 44, it shall order the action dismissed, and shall notify the respondent and complainant thereof and shall also transmit a copy of the complaint and the fact of dismissal to the Attorney General and to the district attorney of the appropriate county. If the committee finds that the respondent has violated any of the provisions of Rule 44, it shall state its findings of fact and submit a report thereon to the house in which the respondent serves, send a copy of such findings and report to the complainant and respondent, and the committee shall also report thereon to the Attorney General and to the district attorney of the appropriate county.

(*l*) Nothing in this rule shall preclude any person from instituting a prosecution for violation of any provision of Rule 44 unless such person has filed a complaint with the committee concerning such violation, in which case such person may not file a complaint with the district attorney of the appropriate county to institute a criminal prosecution for such violation until the committee has made its determination of the matter or a period of 120 days has elapsed since the filing of the complaint with the committee.

(m) The filing of a complaint with the committee pursuant to this rule suspends the running of the statute of limitations applicable to any violation of the provisions of Rule 44 while such complaint is pending.

(n) The committee shall maintain a record of its investigations, inquiries, and proceedings. All records, complaints, documents, reports filed with or submitted to or made by the committee, and all records and transcripts of any investigations, inquiries, or hearings of the committee under this rule shall be deemed confidential and shall not be open to inspection by any person other than a member of the committee, an employee of the committee, or a state employee designated to assist the committee, except as otherwise specifically provided in this rule. The committee may, by adoption of a resolution, authorize the release to the Attorney General or to the district attorney of the appropriate county of any information, records, complaints, documents, reports, and transcripts in its possession material to any matter pending before the Attorney General or the district attorney. All matters presented at a public hearing of the committee and all reports of the committee stating a final finding of fact pursuant to subdivision (k) of this rule shall be public records and open to public inspection. Any employee of the committee who divulges any matter which is deemed to be confidential by this subdivision is punishable as provided in Section 8953 of the Government Code.

(o) All actions of the committee shall require the concurrence of two members of the committee from each house.

(p) The committee may render advisory opinions to Members of the Legislature with respect to the provisions of Rule 44 and their application and construction. The committee may secure an opinion

from the Legislative Counsel for this purpose or issue its own opinion.

Legislative Hearing Rooms

46. The Rules Committee of each house shall provide designated space for nonsmokers in each legislative hearing room under its jurisdiction; provided, however, that nothing in this rule shall prevent any committee chairman from prohibiting smoking completely, or from further restricting smoking to a greater extent than provided by the Rules Committee of that house.

Designating Legislative Sessions

50. Regular sessions shall be identified with the odd-numbered year subsequent to each general election, followed by a hyphen, and then the last two digits of the following even-numbered year. For example: 1973–74 Regular Session.

Days and Dates

50.5. (a) As used in these rules, "day" means a calendar day, unless otherwise specified.

(b) When the date of a deadline, recess requirement, or circumstance falls on a Saturday, Sunday, or Monday that is a holiday, the date shall be deemed to refer to the preceding Friday. When the date falls on a holiday on a weekday other than a Monday, the date shall be deemed to refer to the preceding day.

Legislative Calendar

51. (a) The Legislature shall observe the following calendar during the first year of the regular session:

(1) Organizational Recess—The Legislature shall meet on the first Monday in December following the general election to organize. Thereafter, each house shall be in recess from such time as it determines, but not later than the following Friday until the first Monday in January, except when the first Monday is January 1 or January 1 is a Sunday, in which case, the following Wednesday.

(2) Easter Recess—The Legislature shall be in recess from the 10th day prior to Easter until the Monday after Easter.

(3) Summer Recess—The Legislature shall be in recess from July 19 until August 19. This recess shall not commence until the Budget Bill is enacted.

(4) Interim Study Recess—The Legislature shall be in recess from September 13 until the first Monday in January, except when the first Monday is January 1 or January 1 is a Sunday, in which case, the following Wednesday.

(b) The Legislature shall observe the following calendar for the

remainder of the legislative session:

(1) Easter Recess—The Legislature shall be in recess from the 10th day prior to Easter until the Monday after Easter.

(2) Summer Recess—The Legislature shall be in recess from July 3 until August 3. This recess shall not commence until the Budget Bill is enacted.

(3) Final Recess—The Legislature shall be in recess on September 1 until adjournment sine die on November 30.

(c) Recesses shall be from the hour of adjournment on the day specified to reconvene at the time designated by the respective houses.

(d) The recesses specified by this rule shall be designated as joint recesses.

Recall From Recess

52. Notwithstanding the power of the Governor to call a special session, the Legislature may be recalled from joint recess and reconvene in regular session by any of the following means:

(a) It may be recalled by joint proclamation, which shall be entered in the journal, of the Senate Committee on Rules and the Speaker of the Assembly or, in his or her absence from the state, the Assembly Committee on Rules.

(b) Ten or more Members of the Legislature may present a request for recall from joint recess to the Chief Clerk of the Assembly and the Secretary of the Senate. The request shall immediately be printed in the journal. Within 10 days thereafter, the Speaker of the Assembly, or if the Speaker is absent from the state, the Assembly Committee on Rules, and the Senate Committee on Rules shall act upon the request. If they concur in desiring to recall the Legislature from joint recess, they shall issue their joint proclamation entered in the journal no later than 20 days after publication of the request in the journal.

(c) If either or both of the parties specified in subdivision (b) does not concur, 10 or more Members of the Legislature may request the Chief Clerk of the Assembly or the Secretary of the Senate to petition the membership of the respective house. The petition shall be entered in the journal and shall contain a specified reconvening date commencing not later than 20 days after the date of the petition. If two-thirds of the members of the house or each of the two houses concur, the Legislature shall reconvene on the date specified. The necessary concurrences must be received at least 10 days prior to date specified for reconvening.

Procedure on Suspending Rules by Single House

53. Whenever these rules authorize suspension of the Joint Rules as to a particular bill by action of a single house after approval by the Committee on Rules of that house, the following procedure shall be

followed:

(a) A written request to suspend the joint rule shall be filed with the Chief Clerk of the Assembly or the Secretary of the Senate, as the case may be, and shall be transmitted to the Committee on Rules of the appropriate house.

(b) The Assembly Committee on Rules or the Senate Committee on Rules, as the case may be, shall determine whether there exists an urgent need for the suspension of the joint rule with regard to the bill.

(c) If the appropriate rules committee recommends that the suspension be permitted, the member may offer a resolution, without further reference thereof to committee, granting permission to suspend the joint rule. The adoption of the resolution granting such permission shall require an affirmative recorded vote of the elected members of the house in which the request is made.

Introduction of Bills

54. (a) No bill may be introduced in the first year of the regular session after March 8 and no bill may be introduced in the second year of the regular session after February 28. These deadlines shall not apply to constitutional amendments, committee bills introduced pursuant to Assembly Rule 47 or Senate Rule 23, bills introduced in the Assembly with the permission of the Speaker of the Assembly, or bills introduced in the Senate with the permission of the Senate Committee on Rules. Subject to these deadlines, bills may be introduced at any time except when the houses are in joint summer, interim, or final recess. Each house may provide for introduction of bills during a recess other than a joint recess. Bills shall be numbered consecutively during the regular session.

(b) The desks of the Senate and Assembly shall remain open, during a joint recess, other than a joint Easter, summer, interim, or final recess, for introduction of bills, during business hours on Monday through Friday, inclusive, except holidays. Bills received at the Senate Desk during such periods shall be numbered and printed. After printing, such bills shall be delivered to the Secretary of the Senate and shall be referred by the Senate Committee on Rules to a standing committee. Bills received at the Assembly Desk during such periods shall be numbered, printed, and referred to a committee by the Assembly Committee on Rules. After printing, such bills shall be delivered to the Chief Clerk of the Assembly. On the reconvening of each house, the bills shall be read the first time, and shall be delivered to the committee to which they were referred.

(c) A member may not author a bill during a session that would have substantially the same effect as a bill he or she had previously introduced during that session. This restriction shall not apply in cases where a previously introduced bill has been vetoed by the Governor or has had its provisions "chaptered out" by a later chaptered bill pursuant to Section 9605 of the Government Code. An

objection may be raised only while the bill is being considered by the house in which it is introduced. In such case the objection shall be referred to the Committee on Rules of the house for a determination. The bill shall remain on file or with a committee, as the case may be, until such determination is made. If upon consideration of the objection the Committee on Rules determines that the bill objected to would have substantially the same effect as another bill previously introduced during the session by the author, the bill objected to shall be stricken from the file or returned to the desk by the committee, as the case may be, and shall not be acted upon during the remainder of the session. If the Committee on Rules determines that the bill objected to would not have substantially the same effect as a bill previously introduced during the session by the author, the bill may thereafter be acted upon by the committee or the house, as the case may be. The Committee on Rules may obtain such assistance as it may desire from the Legislative Counsel as to the similarity of a bill or amendments to a prior bill.

This joint rule may be suspended by approval of the Committee on Rules and three-fourths vote of the membership of the house.

(d) During a joint recess, the Chief Clerk of the Assembly or Secretary of the Senate shall order the preparation of preprint bills when so ordered by any of the following:

(1) The Speaker of the Assembly.

(2) The Committee on Rules of the respective houses.

(3) A committee with respect to bills within the subject matter jurisdiction of the committee.

Preprint bills shall be designated as such and shall be printed in the order received and numbered in the order printed. To facilitate subsequent amendment, preprint bills shall be so prepared that when introduced as a bill, the page and the line numbers will not change. The Chief Clerk of the Assembly and Secretary of the Senate shall publish a list periodically of such preprint bills showing the preprint bill number, the title, and the Legislative Counsel's Digest. The Speaker of the Assembly and Senate Committee on Rules may refer all preprint bills to committee for study.

30-Day Waiting Period

55. No bill other than the Budget Bill may be heard or acted upon by committee or either house until the bill has been in print for 30 days. The date a bill is returned from the printer shall be entered in the history. This rule may be suspended concurrently with the suspension of the requirement of Section 8 of Article IV of the Constitution or if such period has expired, this rule may be suspended by approval of the Committee on Rules and two-thirds vote of the house in which the bill is being considered.

Return of Bills

56. Bills introduced in the first year of the regular session and passed by the house of origin on or before the January 30th constitutional deadline are "carryover bills." Immediately after January 30, bills introduced in the first year of the regular session that do not become "carryover bills" shall be returned to the Chief Clerk of the Assembly or Secretary of the Senate, respectively. Notwithstanding Rule 4, as used in this rule, "bills" does not include constitutional amendments.

Appropriation Bills

57. Appropriation bills that may not be sent to the Governor shall be held, after enrollment, by the Chief Clerk of the Assembly or Secretary of the Senate, respectively. The bills shall be sent to the Governor immediately after the Budget Bill has been enacted.

Urgency Clauses

58. An amendment to add a section to a bill to provide that the act shall take effect immediately as an urgency statute shall not be adopted unless the author of the amendment has first secured the approval of the Committee on Rules of the house in which the amendments are offered.

Vetoes

58.5. The Legislature may consider a Governor's veto for only 60 days, not counting days when the Legislature is in joint recess.

Publications

59. During periods of joint recess, weekly, if necessary, the following documents shall be published: files, histories, and journals.

Hearings in Sacramento

60. (a) No standing committee or subcommittee thereof may take action on a bill at any hearing held outside of Sacramento.

(b) A committee may hear the subject matter of a bill during a period of recess. Four days' notice in the daily file is required prior to the hearing.

(c) No bill may be acted upon by a committee during a joint recess.

Deadlines

61. The following deadlines shall be observed by the Senate and Assembly. After each deadline, the Secretary of the Senate and the Chief Clerk of the Assembly shall not accept committee reports from their respective committees except as otherwise provided in this rule:

(a) Odd-numbered year:

(1) Mar. 8— Last day for bills to be introduced.
(2) May 3— Last day for policy committees to report to fiscal committees fiscal bills introduced in their house.
(3) May 24— Last day for policy committees to report to the floor nonfiscal bills introduced in their house.
(4) May 31— Last day for policy committees to meet prior to June 17.
(5) June 7— Last day for fiscal committees to report to the floor bills introduced in their house.
(6) June 7— Last day for fiscal committees to meet and report bills prior to June 17.
(7) June 14— Last day for each house to pass bills introduced in their house.
(8) June 17— Committee meetings may resume.
(9) July 19— Last day for policy committees to meet and report bills.
(10) Aug. 30— Last day for fiscal committees to meet and report fiscal bills.
(11) Sept. 13— Last day for each house to pass bills.

(b) Even-numbered year:

(1) Jan. 17— Last day for policy committees to hear and report to fiscal committees fiscal bills introduced in their house in the odd-numbered year.
(2) Jan. 24— Last day for any committee to hear and report to the floor bills introduced in their house in the odd-numbered year.
(3) Jan. 31— Last day for each house to pass bills introduced in their house in the odd-numbered year.
(4) Feb. 21— Last day for bills to be introduced.
(5) April 9— Last day for policy committees to hear and report to fiscal committees fiscal bills introduced in their house.
(6) May 8— Last day for policy committees to hear and report to the floor nonfiscal bills introduced in their house.
(7) May 15— Last day for policy committees to meet and report bills prior to June 1.
(8) May 22— Last day for fiscal committees to hear and report to

the floor bills introduced in their house.

(9) May 22— Last day for fiscal committees to meet and report bills prior to June 1.

(10) May 29— Last day for each house to pass bills introduced in their house.

(11) June 1— Committee meetings may resume.

(12) July 3— Last day for policy committees to meet and report bills.

(13) Aug. 14— Last day for fiscal committees to meet and report fiscal bills.

(14) Aug. 31— Last day for each house to pass bills.

(c) If a bill is acted upon in committee before the relevant deadline and the committee votes to report the bill out with amendments that have not at the time of the vote been prepared by the Legislative Counsel, the Secretary of the Senate and the Chief Clerk of the Assembly may subsequently receive a report recommending the bill for passage or for rereferral together with the amendments at any time within two legislative days after the deadline or, if the Legislature has recessed for the Summer Recess, within seven calendar days after the deadline.

(d) Notwithstanding subdivisions (a) and (b), a policy committee may report a bill to a fiscal committee on or before the relevant deadline for reporting nonfiscal bills to the floor, if, after the policy committee deadline for reporting the bill to fiscal committee, the Legislative Counsel's Digest is changed to indicate reference to fiscal committee.

(e) Bills in the house of origin not acted upon during the odd-numbered year as a result of the deadlines imposed in subdivision (a) may be acted upon when the Legislature reconvenes after the interim study joint recess, or at any time the Legislature is recalled from the interim study joint recess.

(f) The deadlines imposed by this rule shall not apply to the rules committees of the respective houses.

(g) The deadlines imposed by this rule shall not apply in instances where a bill is referred to committee under Rule 26.5.

(h) (1) Notwithstanding subdivisions (a) and (b), a policy committee or fiscal committee may meet for the purpose of hearing and reporting a constitutional amendment, or a bill which would go into immediate effect pursuant to subdivision (c) of Section 8 of Article IV of the Constitution of California, at any time other than those periods when no committee may meet for any purpose.

(2) Notwithstanding subdivisions (a) and (b), either house may meet for the purpose of considering and passing a constitutional amendment, or a bill which would go into immediate effect pursuant to subdivision (c) of Section 8 of Article IV of the Constitution of California, at any time during the session.

(i) This rule may be suspended as to any particular bill by approval of the Committee on Rules and two-thirds vote of the

membership of the house.

Committee Procedure

62. (a) Notice of a hearing on a bill by the committee of first reference in each house shall be published in the file at least four days prior to the hearing. Otherwise, notice shall be published in the file two days prior to the hearing. Such notice may be waived by a majority vote of the house in which the bill is being considered. A bill may be set for hearing in a committee only three times. A bill is "set" for purposes of this subdivision whenever notice of the hearing has been published in the file for one or more days. If a bill is set for hearing, and the committee, on its own initiation and not the author's, postpones the hearing on the bill or adjourns the hearing while testimony is being taken, such hearing shall not be counted as one of the three times a bill may be set. After hearing the bill, the committee may vote on the bill. If the hearing notice in the file specifically indicates that "testimony only" will be taken, such hearing shall not be counted as one of the three times a bill may be set. A committee may not vote on a bill so noticed until it has been heard in accordance with this rule. After a committee has voted on a bill, reconsideration may be granted only one time. Reconsideration may be granted within 15 legislative days or prior to the interim study joint recess, whichever first occurs. A vote on reconsideration cannot be taken without the same notice required to set a bill unless such vote is taken at the same meeting at which the vote to be reconsidered was taken and the author is present. When a bill fails to get the necessary votes to pass it out of committee or upon failure to receive reconsideration, it shall be returned to the Chief Clerk of the Assembly or Secretary of the Senate of the house of the committee and may not be considered further during the session.

This subdivision may be suspended with respect to a particular bill by approval of the Committee on Rules and two-thirds vote of the members of the house.

(b) If the committee adopts amendments other than those offered by the author and orders the bill reprinted prior to its further consideration, the hearing shall not be the final time a bill may be set under subdivision (a) of this rule.

(c) When a standing committee takes action on a bill, the vote shall be by rollcall vote only. All rollcall votes taken by a standing committee shall be recorded by the committee secretary on forms provided by the Chief Clerk of the Assembly and the Secretary of the Senate. The chairman or chairwoman of each standing committee shall promptly transmit a copy of the record of the rollcall votes to the Chief Clerk of the Assembly or the Secretary of the Senate, respectively, who shall cause the votes to be published as prescribed by each house.

The provisions of this subdivision shall also apply to action of a

committee on a subcommittee report. The rules of each house shall prescribe the procedure as to rollcall votes on amendments.

Any committee may, with the unanimous consent of the members present, substitute a rollcall from a prior bill, provided that the members whose votes are substituted are present at the time of the substitution.

At no time shall a bill be passed out by a committee without a quorum being present.

The provisions of this subdivision shall not apply to:

(1) Procedural motions which do not have the effect of disposing of a bill.

(2) Withdrawal of a bill from a committee calendar at the request of an author.

(3) Return of bills to the house where the bills have not been voted on by the committee.

(4) The assignment of bills to committee.

(d) The chairman or chairwoman of the committee hearing a bill, may, at any time, order a call of the committee. Upon a request by any member of a committee or the author in person, the chairman or chairwoman shall order the call.

In the absence of a quorum, a majority of the members present may order a quorum call of the committee and compel the attendance of absentees. The chairman or chairwoman shall send the Sergeant at Arms for those members who are absent and not excused by their respective house.

When a call of a committee is ordered by the chairman or chairwoman with respect to a particular bill, he or she shall send the Sergeant at Arms or any other person to be appointed for that purpose for those members who have not voted on that particular bill and are not excused.

A quorum call or a call of the committee with respect to a particular bill may be dispensed with by the chairman or chairwoman without objection by any member of the committee, or by a majority of the members present.

If a motion is adopted to adjourn the committee while the committee is operating under a call, the call shall be dispensed with and any pending vote announced.

The committee secretary shall record the votes of members answering a call. The rules of each house may prescribe additional procedures for a call of a committee.

Redistricting Bills

62.5. This rule applies only to bills affecting the boundaries of legislative, congressional, or State Board of Equalization districts.

(a) Except as specifically provided in this rule, Rules 28, 28.1, 29, 29.5, 30, 30.5, 30.7, 61 (except for paragraph (11) of subdivision (a) and paragraph (14) of subdivision (b) of Rule 61), and 62 shall not apply to bills affecting the boundaries of legislative, congressional, or

State Board of Equalization districts.

(b) If the Senate (in the case of a Senate bill) or the Assembly (in the case of an Assembly bill) refuses to concur in amendments to a bill made by the other house, a committee on conference shall be appointed. The Speaker of the Assembly and the Senate Committee on Rules shall each appoint a committee on conference of three members, consisting of two members of the majority party and one member not of the majority party. The Secretary of the Senate and the Chief Clerk of the Assembly shall immediately notify the other house of the action taken.

(c) When a bill affecting the boundaries of legislative, congressional, or State Board of Equalization districts has been referred to a committee on conference, the chair of the committee on conference shall immediately request the Senate Committee on Elections and Reapportionment and the Assembly Committee on Elections, Reapportionment, and Constitutional Amendments to hold a public hearing on the bill. The committee on conference shall also hold a public hearing on the bill. The hearings of the policy committees and the committee on conference may be noticed and held concurrently.

(d) If either or both of the policy committees hold a public hearing on a bill pursuant to the request of the chair of the committee on conference, the policy committees may consider amendments to the bill, and may make recommendations on amendments to the committee on conference. A policy committee recommendation for an amendment may only be adopted by a rollcall vote of the members of the policy committee.

(e) All proposed reports of a committee on conference, all proposed amendments to a proposed report of a committee on conference, and all proposed amendments presented to a policy committee shall be accompanied by appropriate maps, and no committee vote shall be taken on any proposed report of a committee on conference, any proposed amendment to a proposed report of a committee on conference, or any proposed amendment presented to a policy committee unless the proposed report or proposed amendment, with accompanying maps, has been available to the public for at least 24 hours. District boundaries contained in any proposed report or any proposed amendment shall not be required to be prepared or approved as to form by Legislative Counsel if the accompanying maps adequately reflect the district boundaries.

(f) All hearings of the policy committees and the committee on conference shall be open and readily accessible to the public, and shall be noticed in the Daily File for not less than two calendar days.

(g) The provisions of subdivisions (e) prohibiting a committee vote on any proposed report of a committee on conference, any proposed amendment to a proposed report of a committee on conference, or any proposed amendment presented to a policy committee unless the amendment, accompanied by appropriate

maps, has been available to the public for at least 24 hours shall not apply in any of the following situations:

(1) The amendment proposed to a policy committee or the committee on conference does not change any district boundaries.

(2) The amendment proposed to a policy committee or the committee on conference is required to correct a technical error in the bill, and the proposed amendment would shift no more than 1 percent of the population of any district to any other district or districts.

(3) The amendment is a policy committee or committee on conference amendment that is proposed in response to amendments that have been proposed to the committee.

(h) Except as provided in subdivision (i), no vote may be taken in either house on any bill or any report of the committee on conference on that bill unless the bill or the report has been in print in Legislative Counsel form and available to the public, accompanied by appropriate maps, for at least 24 hours.

(i) If either house refuses to adopt the report of the committee on conference, the bill may be returned to the committee on conference for further consideration. If the bill is returned to the committee on conference for an amendment described in paragraph (1) or (2) of subdivision (g), the notice requirements of subdivision (e) and (h) shall not apply.

(j) Notwithstanding any other rule to the contrary, this rule may be suspended upon a majority vote of the membership of each house.

Uniform Rules

63. No standing committee of either house shall adopt or apply any rule or procedure governing the voting upon bills which is not equally applicable to the bills of both houses.

Votes on Bills

64. Every meeting of each house and standing committee or subcommittee thereof where a vote is to be taken on a bill, or amendments to a bill, shall be public.

Conflicting Rules

65. The provisions of Rule 50 and following of these rules prevail over any conflicting joint rule with a lesser number.

RESOLUTION CHAPTER 127

Senate Concurrent Resolution No. 22—Relative to the Center for the Resolution of Environmental Disputes.

[Filed with Secretary of State September 26, 1991.]

WHEREAS, Rapid population growth and competing demands for California's natural resources often engender intense public conflict over their wise and equitable use; and

WHEREAS, Traditional approaches for resolving complex environmental issues that involve litigation or the vote of the people during elections are costly, time consuming, and limited in the alternatives that may be presented for resolving the issues; and

WHEREAS, Mediation, neutral third-party facilitation, and other negotiation techniques have been successfully applied in a range of natural resource disputes, and often result in new solutions that better satisfy all parties. Facilitated discussions can also help to avoid conflicts by addressing issues at early stages of development; and

WHEREAS, As the luxury of broad choices in California's natural resource use declines, the practice and teaching of environmental dispute resolution takes on even greater importance, which warrants active state support and participation; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Members request the Chancellor of the California State University to take any action necessary to establish the Center for the Resolution of Environmental Disputes, as follows:

(a) The center shall be authorized to do all of the following:

(1) Provide neutral third-party assistance to governments, businesses, and citizen groups in the settlement of natural resource disputes.

(2) Offer courses of study and conduct research in environmental dispute resolution.

(3) Accept grants and charge fees for service on a nonprofit basis to support the operation of the center. The funds to operate the center shall be derived solely from grants or fees for services.

(b) The center shall be sited at an existing campus of the California State University which is centrally located to ongoing natural resource conflicts concerning forests, fish, water, coastal and ocean resources, wild and scenic rivers, threatened or endangered species, or wilderness and wildland resources.

(c) The Legislature requests the Chancellor of the California State University to establish and convene an advisory task force to develop a plan for the center composed of the following members:

(1) The Chancellor of the California State University, or his or her designee, who shall be the chairperson of the advisory task force.

(2) The Director of Forestry and Fire Protection.

(3) The Director of Fish and Game.

(4) Two faculty members of the California State University,

appointed by the chancellor, one of whom shall have expertise in conflict resolution and one of whom shall have expertise in natural resources.

(5) One representative from a natural resources-based industry and one representative from an environmental organization each of whom have personally participated in negotiated environmental disputes, to be selected by the members described in paragraphs (1) to (4), inclusive.

(6) The members of the advisory task force may select additional members whom they consider necessary or desirable.

(d) In developing the plan, the advisory task force shall solicit advice from other institutions or centers for environmental conflict resolution, including, but not limited to, those associated with academic institutions, and from foundations and private organizations that support negotiation as a means of resolving disputes.

(e) The advisory task force is authorized to act pursuant to this resolution only until January 1, 1994, and as of that date is terminated; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Chancellor of the California State University.

RESOLUTION CHAPTER 128

Senate Concurrent Resolution No. 29—Relative to the Foothill Freeway.

[Filed with Secretary of State September 26, 1991.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the portion of Interstate 210 from its junction with Interstate Route 5 in Los Angeles, together with those portions of State Highway Route 30 which are constructed to freeway standards, to its junction with Interstate Route 10 in Redlands, be officially designated the "Foothill Freeway"; and be it further

Resolved, That the Department of Transportation is requested to determine the cost of erecting appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing the official designation and, upon receiving contributions from nonstate sources to cover that cost, to erect those plaques and markers; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Director of Transportation, to the city clerks of the Cities of Los Angeles, San Fernando, Glendale, La Canada-Flintridge, Pasadena, Arcadia, Monrovia, Duarte, Irwindale, Azuza, Glendora, San Dimas, Highland, Redlands, La Verne, Claremont, Upland, Rancho Cucamonga, Fontana, Rialto, and San

Bernardino, and to the county clerks of the Counties of Los Angeles and San Bernardino.

RESOLUTION CHAPTER 129

Senate Concurrent Resolution No. 33—Relative to Women in California Prisons.

[Filed with Secretary of State September 26, 1991.]

WHEREAS, From the period of 1984 to 1990, the adult population of women prisoners tripled from 2,195 to 6,375 in Department of Corrections' facilities; and

WHEREAS, All female prisoners are housed in one of the following five Department of Corrections' women's facilities: the Central California Women's Facilities, California Institution for Women, the Northern California Women's Facility, the California Rehabilitation Center, and the Sierra Correctional Center; and

WHEREAS, These facilities were designed to house 4,750 female prisoners, but, in fact, now hold 6,537; and

WHEREAS, The Department of Corrections has projected a growth in the number of female prisoners to reach an estimated 10,242 by 1996; and

WHEREAS, A significant element of the increase in female prisoners has included a disproportionately high number of minority and low-income women; and

WHEREAS, The problem of the increase in female prisoners parallels the problem of explosive growth in the male prisoner population and, therefore, comprises an important part of the public policy dilemma facing legislators, corrections officials, and law enforcement; and

WHEREAS, The comparatively small number of female prisoners offers the state an opportunity to explore ways of increasing correctional housing efficiencies; and

WHEREAS, Although a larger percentage of women offenders are imprisoned for less severe crimes and fewer violent crimes than is the case of men, usually property crimes or drug offenses that lend themselves to greater opportunity for rehabilitation and return to society, women offenders are dealt with basically utilizing the same methods used for male prisoners and male parolees; and

WHEREAS, The impact of imprisoning the female law violator is often more serious both to herself and to society as a whole because of the high percentage who are single mothers attempting to raise children from the confines of a prison where little or no provision is made for the special needs of children or their incarcerated parents. According to a report submitted to the State Department of Health Services ("Pregnancy in Prison: A Needs Assessment of Parental

Outcome in Three California Penal Systems," (1985)), as many as 75% to 80% of women in prison are mothers of young children; and

WHEREAS, That impact upon the female offender and upon society as a whole is exacerbated by the fact that a high percentage of female offenders are drug users attempting to raise children and likely to give birth to drug exposed babies with the commensurately immense social and financial costs to society, while living in a prison system which makes no special provision for these problems; and

WHEREAS, The state's prison system has no significant drug rehabilitation programs for any sizable number of female offenders despite their critical impact upon society as a whole; and

WHEREAS, The state's prison system has seven community facilities with less than 100 beds for female prisoners with small children in its Mother Infant Care Program, despite the fact that it has been in existence for eight years in a system where there are several thousand eligible prisoners at any given time and despite the critical need for mother-child bonding for children under six years of age; and

WHEREAS, Despite the particular health care and medical needs facing female prisoners such as preincarceration pregnancy, high rate of drug abuse, with its impact on children, and the treatment of women prisoners with AIDS, medical facilities at the state's largest women's prison, California Institution for Women, was rated in 1990 by the State Department of Health Services as so deficient in medical care that it would be closed were it a private hospital; among these conditions being at least six unexplained prisoner deaths in recent years; and

WHEREAS, Prisons for male and female prisoners tend to be designed, built, operated, and staffed in much the same manner despite the fact that needs and treatment requirements differ; and

WHEREAS, These issues require a significant study to determine why female prisoners enter the correctional system and how legislation and correctional and parole policies impact female prisoners; and

WHEREAS, Public policymakers and law enforcement officials need to offer their views and insights into this overall law enforcement and corrections problem before a comprehensive solution can be arrived at; and

WHEREAS, Developing public policies would assure that the most violent and destructive female prisoners receive top priority for the increasingly scarce prison housing capacity; and

WHEREAS, There is a need for an entity to draw upon the data collected by affected agencies at various levels of government to assess the cause and effect relationship between existing public policy and overcrowding of women's penal institutions; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature requests that the Governor establish a blue ribbon commission of 19 members to study methods

of improving the efficient use of female prisoner housing capacity and alternatives to state prison incarceration for nonviolent female offenders as they pertain to the above-mentioned issues. Funding for expenses incurred by the commission shall be on a matching funds basis. Fifty percent, and in no case more than one hundred thousand dollars ($100,000), of the funding shall be funded from the Department of Corrections' budget and 50 percent of the funding should be funded from available nonstate or local sources.

The commission membership shall be composed of the following:

(a) The Governor shall appoint six members, one of whom shall be a warden of a California women's correctional institution, one of whom shall be a director of a female community corrections' facility, two of whom shall be a physician and surgeon specializing in the treatment of institutionalized or incarcerated women, one of whom shall be a female former prisoner who has completed parole and is a mother of a small child or is a rehabilitated substance abuser, and one of whom shall be a public representative. The Governor shall designate a chairperson of the commission.

(b) The Senate Committee on Rules shall appoint four members, one of whom shall be an attorney specializing in legal services for women prisoners, one of whom shall be experienced in operating a drug rehabilitation program for women, one of whom shall be experienced in directing mother and infant care facilities, and one of whom shall be a public representative.

(c) The Speaker of the Assembly shall appoint four members, one of whom shall be an attorney specializing in legal services of women prisoners, one of whom shall be experienced in operating a drug rehabilitation program for women, one of whom shall be experienced in directing mother and infant care facilities, and one of whom shall be a female former prisoner who has completed parole and who is a mother of a small child or is a rehabilitated substance abuser.

(d) The Director of the California Youth Authority and the Director of Corrections shall serve as members of the commission.

(e) The Attorney General or his or her designated alternate shall serve as a member of the commission.

(f) Chief Justice shall select one superior court judge to serve as a member of the commission.

(g) The California Correctional Peace Officer's Association shall appoint one correctional peace officer to serve as a member of the commission; and be it further

Resolved, That the initial appointments to the commission shall be made not later than 90 days after this resolution is adopted. Any appointments that are not made by the Governor within this period shall be made by the Senate Committee on Rules or the Speaker of the Assembly, alternating in that order. Any appointments that are not made by the Senate Committee on Rules or the Speaker of the Assembly within this period shall be made by the Governor. A member shall serve at the pleasure of the actual appointing

authority, and any vacancy shall be filled by that appointing authority; and be it further

Resolved, That the commission shall request the Presley Correctional Research and Training Institute and the Law Centers of the University of Southern California and the University of California to provide research assistance and any professional, clerical, and other assistance that may be necessary to carry out the work of the commission; and be it further

Resolved, That the commission shall be terminated on September 1, 1992, unless a later adopted concurrent resolution, which is chaptered before that date, deletes or extends the date; and be it further

Resolved, That the commission shall make an initial written report to the Governor, the Senate Judiciary Committee, the Assembly Committee on Public Safety, the Joint Legislative Committee on Prison Construction and Operation, the Senate Appropriations Committee, the Assembly Ways and Means Committee, and the Legislature of its activities, findings, and recommendations no later than nine months after its first meeting. The commission shall also prepare a final written report of its findings to the Governor and to the Legislature, including recommended legislation or action by the Governor's office which will promote the purpose of the commission; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Governor.

RESOLUTION CHAPTER 130

Senate Concurrent Resolution No. 36—Relative to courthouse security.

[Filed with Secretary of State September 26, 1991]

WHEREAS, The Senate of the State of California created a Task Force on Family Relations Court to study and analyze the structure of the superior court, and to develop recommendations for revisions of the existing court system for the Judicial Council and the Legislature; and

WHEREAS, The task force found the most glaring deficiency in most courtroom facilities was lack of protection; and

WHEREAS, The task force findings declared that courts need to provide for the safety of family members and court staff; and

WHEREAS, Judge Howard Broadman was recently shot at in his superior courtroom in Visalia, California; and

WHEREAS, Four bay area courts have experienced shootings in the past five years involving family court, some ending in fatalities; and

WHEREAS, The threat of violence stems from the volatile nature of family law, which deals with some of the most personal human issues—love, money, and children; and

WHEREAS, The potential for violence is even greater in family court than in criminal court, where most often the dangerous person is in custody; and

WHEREAS, It is generally believed that family law courtrooms are the most dangerous areas of the state's courthouses; and

WHEREAS, The Senate Task Force on Family Relations Court listed greater security around family law court as one of its' 36 recommendations; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That each county shall respond to a survey administered by the Judicial Council, which shall study each county's courtroom security and the incidence of violence in family law courts, and which shall determine the security standards that should be implemented statewide to make our courtrooms safe for all those who work in and appear before the court; and be it further

Resolved, That the Judicial Council report its findings and recommendations to the Legislature on or before December 31, 1991.

RESOLUTION CHAPTER 131

Senate Concurrent Resolution No. 39—Relative to state office space.

[Filed with Secretary of State September 26, 1991.]

WHEREAS, There is an ongoing need for office space in the vicinity of the State Capitol for state employees; and

WHEREAS, Current practices for meeting those requirements do not serve the state's best interests because they emphasize short-term savings over long-term planning and sound fiscal management; and

WHEREAS, The reliance on short-term lease arrangements for office space disrupts state government because of continual relocation and, according to the Department of General Services, the Auditor General, and the Little Hoover Commission, costs the state millions of dollars annually; and

WHEREAS, Despite the Legislature's existing policy to pursue ownership opportunities for state office space, the Department of General Services has not pursued these opportunities; and

WHEREAS, A failure to pursue those opportunities impairs the efficient operation of state government; and

WHEREAS, This impairment must be addressed because of fiscal and operational deficiencies of current space utilization practices for

state employees in the capitol area; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California requests the Department of General Services to prepare a plan to consolidate, to the extent feasible, state employees and functions within the state capitol area and adjacent areas, consistent with the Capitol Area Plan and other current state law and policies for the location of state office space in the capitol area and adjacent areas; and be it further

Resolved, That, in developing the plan, the department cooperate with the appropriate municipalities to ensure that the plan considers the objectives of the affected municipalities in the redevelopment of the capitol area and adjacent areas and any city policies with respect to housing and environmental quality in the capitol area and adjacent areas; and be it further

Resolved, That the plan identify which agencies currently occupy leased space and propose a priority list to relocate these agencies into state-owned space in the capitol area and adjacent areas so as to realize a net savings; and be it further

Resolved, That the plan identify the estimated cost of the proposed state-owned space and identify options for financing the acquisition of that space; and be it further

Resolved, That a schedule for preparing the plan be submitted to the chairs of the fiscal committees and the Chair of the Joint Legislative Budget Committee within 60 days of the passage of this resolution or by December 1, 1991, whichever is earlier; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Director of General Services.

RESOLUTION CHAPTER 132

Senate Concurrent Resolution No. 50—Relative to the Joint Committee on Energy Regulation and the Environment.

[Filed with Secretary of State September 26, 1991.]

WHEREAS, The Legislature finds and declares that the state's energy development and conservation sectors are critical to the health and welfare of California's economy and environment; and

WHEREAS, Since its inception in 1975, the State Energy Resources Conservation and Development Commission (Energy Commission) has been given extensive responsibilities by the Legislature with regard to powerplant siting, energy supply and demand forecasting, energy conservation, and alternative energy technology development; and

WHEREAS, The Energy Commission shares responsibility for

energy-related functions with over 20 other state governmental agencies, departments, offices, boards, and commissions, including, but not limited to, the Public Utilities Commission, the Environmental Affairs Agency, the Department of General Services, the Energy Extension Service, the Department of Conservation, the State Lands Commission, the California Integrated Waste Management Board, the California Alternative Energy Source Financing Authority, the Department of Water Resources, the State Water Resources Control Board, and the State Air Resources Board, which has resulted in significant fragmentation, duplication, overlap, and confusion in the formulation and execution of state energy-related functions; and

WHEREAS, Emerging energy-related issues facing the state in the 21st century, not fully contemplated at the time the Energy Commission was established, need to be examined more fully, particularly in the areas of air quality, transportation, and other environmental management issues; and

WHEREAS, In its most recent biennial report to the Governor and the Legislature on California's Energy Outlook, the Energy Commission recommended that California's current energy-related functions be examined and evaluated with a view towards possible reform; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, as follows:

(1) The Joint Committee on Energy Regulation and the Environment, which was created by Resolution Chapter 20 of the Statutes of 1989, may act during the 1991–92 Regular Session of the Legislature, including any recess, until June 30, 1992.

(2) The Senate Committee on Rules may make money available from the Senate Contingent Fund for expenses of the committee and its members and staff. Any expenditure of money shall be made in compliance with policies set forth by the Senate Committee on Rules and shall be subject to the approval of the rules committee. The joint committee shall, within 15 calendar days following the adoption of this measure, present its budget to the Joint Rules Committee for its review and comment.

RESOLUTION CHAPTER 133

Senate Concurrent Resolution No. 52—Relative to the Supplemental Report on the 1991 Budget Bill.

[Filed with Secretary of State September 26, 1991.]

WHEREAS, The Supplemental Report on the 1991 Budget Bill, which contains agreed language on statements of intent or requests for studies, was submitted to the Senate and Assembly concurrently

with consideration of the Budget Bill for the 1991–92 fiscal year; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Supplemental Report on the 1991 Budget Bill reflects the intent of both houses of the Legislature in adopting the Budget Act of 1991; and be it further

Resolved, That the Supplemental Report on the 1991 Budget Bill shall be interpreted as the intent of the Legislature by the various agencies of state government affected by the statements contained in the report; and be it further

Resolved, That the Legislative Analyst shall transmit copies of the appropriate parts of the Supplemental Report on the 1991 Budget Bill to the agencies to which the instructions, limitations, or statements of intent are directed in the report, so that the agencies may be fully informed of the action of the Legislature.

RESOLUTION CHAPTER 134

Senate Concurrent Resolution No. 53—Relative to Correctional Education Week.

[Filed with Secretary of State September 26, 1991.]

WHEREAS, With harsher penalties and more stringent prosecution laws, the number of adults and youths being incarcerated at federal, state, and local facilities continues to increase; and

WHEREAS, One of the primary purposes of incarceration is to help inmates better prepare themselves for leading responsible, productive lives following their release by providing them with opportunities to improve their knowledge and skills through educational programs; and

WHEREAS, With this essential support and effective education and job skill training more individuals will be able to sustain themselves after release as law-abiding self-supporting citizens; and

WHEREAS, California correctional educators courageously commit their time, energy, and expertise in support of rehabilitation of inmates, especially by serving as positive role models who can guide offenders in a positive direction while reinforcing their dignity and self-esteem; and

WHEREAS, An international conference of correctional educators from local, state, and national institutions is gathering to share new and innovative techniques, ideas, and strategies for making these educational and training programs even more efficient and effective; and

WHEREAS, It is appropriate that all citizens recognize the valuable services provided by these dedicated professionals who play

a special role in rehabilitating criminal offenders and in helping to make their lives more productive and fulfilling while helping to make our state a safer place for all citizens; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the week of November 17, 1991, through November 22, 1991, is hereby established as Correctional Education Week.

RESOLUTION CHAPTER 135

Senate Concurrent Resolution No. 58—Relative to Joint Rule 56.

[Filed with Secretary of State September 26, 1991.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That Rule 56 of the Joint Rules of the Senate and Assembly for the 1991–92 Regular Session be amended to read:

Return of Bills

56. Bills introduced in the first year of the regular session and passed by the house of origin on or before the January 31st constitutional deadline are "carryover bills." Immediately after January 31, bills introduced in the first year of the regular session that do not become "carryover bills" shall be returned to the Chief Clerk of the Assembly or Secretary of the Senate, respectively. Notwithstanding Rule 4, as used in this rule, "bills" does not include constitutional amendments.

RESOLUTION CHAPTER 136

Senate Joint Resolution No. 4—Relative to medicaid.

[Filed with Secretary of State September 26, 1991.]

WHEREAS, California has been experiencing a brutal crisis in the access of indigent people to health care; and

WHEREAS, Preventive prenatal health care programs have been proven to be overwhelmingly cost-effective; and

WHEREAS, Low-income women often begin prenatal care late in their pregnancies or have too few visits, because of a lack of money, transportation, or child care, or because clinics are often not open at convenient times; and

WHEREAS, At least one other state has addressed this problem by successfully implementing a prenatal health care program using mobile outreach units; and

WHEREAS, At least one California hospital has proposed a similar program, which would utilize a mobile health van to provide prenatal care to the target population in an effective and efficient manner; and

WHEREAS, Since patients reached by such a program are usually Medi-Cal eligible, it is necessary that the program be approved for federal medicaid reimbursement by the Health Care Financing Administration; and

WHEREAS, Although the administration allows satellite clinics to be certified for medicaid reimbursement and although at least one mobile health care program has been approved for reimbursement, the federal government lacks clear statutory authority to certify those programs for medicaid reimbursement; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to enact legislation or require the Health Care Financing Administration to adopt regulations permitting the certification of mobile prenatal health care van programs for reimbursement under the medicaid program; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Director of the Health Care Financing Administration, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 137

Senate Joint Resolution No. 15—Relative to toll roads.

[Filed with Secretary of State September 26, 1991.]

WHEREAS, The President of the United States has proposed a surface transportation reauthorization bill, which calls for tolls on interstate highways and federal subsidies for private toll roads; and

WHEREAS, The California Department of Transportation has suggested that toll roads built under the President's proposal be modeled after the four toll road projects authorized in California by Section 143 of the Streets and Highways Code; and

WHEREAS, The department has also suggested that Congress authorize the use of federal funds for the four demonstration projects authorized by Section 143; and

WHEREAS, The language of Section 143 and the legislative history of the bill that added that section clearly indicate that only private funds were to be used to build the demonstration projects; and

WHEREAS, The private developers selected for those projects have been given contracts containing the following provisions:

(1) Large "franchise zones" within which competing projects, including improvements to many public roads, are prohibited.

(2) The right of the developer to lease miles of airspace along toll roads for a nominal fee, on which the developers can build gas stations, restaurants, shopping centers, and other buildings.

(3) No limit on the amount of tolls that the developer can charge.

(4) Developers are allowed profits in excess of 20 percent from the tolls.

(5) No limit on the profits developers can realize from airspace revenues.

(6) Developers, through the Department of Transportation, may condemn land for the projects; and

WHEREAS, The Legislature of the State of California finds that it is inappropriate to provide federal subsidies to private toll road investors; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to retain the prohibition against the use of federal funds for toll roads, except for demonstration projects currently authorized by Congress, toll bridges, and toll roads financed with interest bearing loans, and not to enact any surface transportation reauthorization act that includes the imposition of tolls on interstate highways; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 138

Senate Joint Resolution No. 19—Relative to Israeli prisoners of war.

[Filed with Secretary of State September 26, 1991.]

WHEREAS, Seven soldiers of the Israel Defense Forces have been missing in action for several years in Lebanon: Yehuda Katz, Zechariah Baumel, and Tevi Feldman have been missing since 1982; Samir Assad has been missing since 1983; and Ron Arad, Yosef Pink, and Rachamim Levi-Alsheech have been missing since 1986; and

WHEREAS, All evidence points to their being held in territory controlled by the Syrians by organizations linked with Syria and Iran; and

WHEREAS, These Israeli POW's are being held incommunicado, and are deprived of all basic rights, such as contacts with their families and meetings with the International Red Cross--and this

treatment constitutes a blatant violation of the Geneva Convention and a cruel disregard for the ordeal of their families and loved ones; and

WHEREAS, Syria, Iran, and the organizations holding the Israeli POW's have refused to acknowledge responsibility for the fate of the POW's and have further refused to divulge any information as to the location or welfare of these individuals; and

WHEREAS, POW's are now being exchanged following the Persian Gulf War, and it is important that the Israeli POW's not be forgotten; and

WHEREAS, Discussions have resumed regarding the exchange of prisoners and western hostages; and

WHEREAS, Recent developments indicate that the region is moving toward peace talks on the Israeli-Arab conflict; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California hereby urges the United States Department of State to seek the cooperation of Syria and Iran in compelling the organizations holding the seven Israeli POW's referred to in this resolution to do both of the following as a first step towards a prisoner exchange in the very near future:

(1) To grant immediate access to the seven Israeli POW's to the International Red Cross.

(2) To provide the seven Israeli POW's with all conditions required by the Geneva Convention; and be it further

Resolved, That the Legislature also urges the Department of State to work with other western nations, and with middle eastern nations desirous of stability in the region, to support all efforts to secure the rights of the seven Israeli POW's referred to in this resolution--efforts which should include a full disclosure of all information relating to their welfare and to the conditions of their imprisonment and the ultimate release of the Israeli POW's as part of a general prisoner exchange; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President, the Vice President, and the Secretary of State of the United States, to the Speaker of the House of Representatives of the United States, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 139

Senate Joint Resolution No. 22—Relative to inmate health care.

[Filed with Secretary of State September 26, 1991.]

WHEREAS, California is experiencing steady growth in its incarcerated population; and

WHEREAS, Pregnant women, women with children, and minors comprise a significant portion of the incarcerated population; and

WHEREAS, Inmate health care costs are skyrocketing due to increased incidences of AIDS, substance abuse, and mental illness; and

WHEREAS, In 1985, the federal government had a policy of providing medicaid for the first and last month of an inmate's incarceration; and

WHEREAS, in 1985, the federal government reversed its policy and discontinued federal medicaid financial participation; and

WHEREAS, Currently, otherwise eligible persons are denied medicaid eligibility upon entering a county detention or correctional facility; and

WHEREAS, Counties must now fund inmate health care through county general fund moneys; and

WHEREAS, These county general fund moneys could be used more effectively to provide other services, such as health care to the indigent; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation, or adopt regulations, approving medicaid eligibility for otherwise eligible inmates in a county-operated detention or correctional facility, or a county-operated juvenile facility; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Secretary of Health and Human Services.

RESOLUTION CHAPTER 140

Senate Joint Resolution No. 24—Relative to the dual banking system.

[Filed with Secretary of State September 26, 1991.]

WHEREAS, This country maintains a dual banking system whereby banks in California may elect whether to be state chartered banks subject to regulation by the State Banking Department or federally chartered banks subject to regulation by the Comptroller of the Currency; and

WHEREAS, The State Banking Department is authorized to approve all applications for state chartered banks to engage in the business of banking in this state; and

WHEREAS, State chartered banks in California are allowed to

provide certain products and services under California law that federally chartered banks are not allowed to provide under current federal law; and

WHEREAS, California banking laws promote capital availability, strengthen economic development, and encourage community reinvestment in this state; and

WHEREAS, It is of great importance that the State of California retain the ability to equitably tax both state and federally chartered banks; and

WHEREAS, The United States Treasury recently proposed a plan to reform and restructure this country's financial system by reducing or eliminating state regulation of banks in favor of increased regulation by the Federal Reserve; and

WHEREAS, The Legislature of the State of California reaffirms and restates its support for the continuation of the dual banking system in California; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President, the Congress, and the Treasury Department to retain and continue the essential components of the dual banking system and ensure that any reforms to the federal deposit insurance system apply equally to all depositors in financial institutions of any size; and recognize that it is imperative that any changes in federal banking laws not impair the ability of the State of California to tax banks in this state; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the United States Secretary of the Treasury.

RESOLUTION CHAPTER 141

Senate Joint Resolution No. 25—Relative to the reauthorization of the Rehabilitation Act of 1973.

[Filed with Secretary of State September 26, 1991.]

WHEREAS, It is the intent of the Legislature to support and enhance the opportunity and ability of all persons with disabilities who reside within California to lead productive, independent, personally empowered, and contributing lives; and

WHEREAS, The Department of Rehabilitation provides a specialized constellation of case management, counseling, and the purchase of goods and services and provides a variety of assistance to persons with disabilities who have independent living, employment, and employability needs; and

WHEREAS, This vocational rehabilitation system was originated and defined in 1920 by federal law whose current form and funding is embodied in the federal Rehabilitation Act of 1973, the intent of which is to promote more independent and productive lives for persons with disabilities; and

WHEREAS, Efforts to review and reform this original purpose have only led to minor changes in the service approach, philosophy, and funding patterns, despite evidence which indicates not only that persons with severe disabilities continue to experience 74 to 86 percent unemployment, major underemployment due to segregation and low expectations, and increasing waiting lists for services, but also that disabled youth and older persons are extremely underserved; and

WHEREAS, With passage of the Americans with Disabilities Act of 1990, which sets forth a sweeping new and systematic declaration of human and civil rights for people with disabilities based on contemporary congressional findings and the assertion of cultural and societal values, dramatic increases in full participation and economic integration of all persons with disabilities will occur in America; and

WHEREAS, No substantial effort has been exerted to look at the many areas of potential system improvements and economies that coexist between the public rehabilitation system, unemployment insurance, and workers' compensation in California that would lead to major benefits to the California economy; and

WHEREAS, A revolution in technology, science, and support services exists that offers to expand the benefits to consumers of services and the public and private employer sector in California; and

WHEREAS, Research from the last decade and the summing up of the best clinical and program practices has not been applied to the service delivery system in order to improve quality and economies to the consumer and tax paying public; and

WHEREAS, The federal Rehabilitation Act of 1973 will be reauthorized by Congress by September 1991; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California urges the California Congressional Delegation to support a two-year reauthorization process of the federal Rehabilitation Act of 1973 that will provide widespread local hearings to ensure maximum public input to focus on establishing a paradigm shift in the rehabilitation system service design in keeping with the spirit and letter of the Americans with Disabilities Act; and be it further

Resolved, That the Legislature commission a study to be completed not later than September 1, 1993, and to be coordinated by the Senate Office of Research in consultation with the Department of Rehabilitation, which parallels the congressional reauthorization timetable that will provide the Legislature with recommendations on the administrative, programmatic, and fiscal

reorganization of the Department of Rehabilitation that will do all of the following:

(a) Research and analyze cost-benefit data that currently exists.

(b) Define performance standards and outcome measures for services to persons with disabilities.

(c) Compare state-of-the-art service models and approaches to maximize the benefits and utilization of these best practices in serving people with disabilities.

(d) Recommend appropriate levels of funding needed to meet the needs of disabled persons in service modes that are congruent with the modern mission of the department.

(e) Install patterns of spending and utilization of federal funds that promote maximum success in achieving personal empowerment and productive independent living, including voucher systems and the creative mixing and matching of public and private funds.

(f) Install service models that maximize economies consistent with the values, goals, and objectives of career-oriented support services and assessment approaches; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 142

Senate Joint Resolution No. 27—Relative to family planning.

[Filed with Secretary of State September 26, 1991.]

WHEREAS, Family planning clinics provide important access to health services for California's economically disadvantaged women; and

WHEREAS, Federal Title X funds provide $12.2 million to California, financial assistance critical to over 200 family planning facilities statewide; and

WHEREAS, The majority of women served by family planning clinics receiving Title X funding have no other alternatives for health care; and

WHEREAS, California's family planning clinics are already experiencing significant financial stress as the result of below average reimbursement rates for services provided; and

WHEREAS, California's law on "informed consent" requires physicians to advise their patients of all risks, benefits, and alternatives on any medical procedure, and any limits on informed consent would represent a violation of California law; and

WHEREAS, California's physicians have a professional obligation

to inform their patients of all their treatment alternatives, and any limits on this obligation would jeopardize the patient-physician relationship; and

WHEREAS, The United States Supreme Court ruling of May 23, 1991, in the case of Rust v. Sullivan, upholds regulations adopted by the Secretary of Health and Human Services which prohibit family planning programs that receive Title X funds from providing abortion counseling or referral services to women; and

WHEREAS, The people of California believe that the regulations adopted by the Secretary of Health and Human Services violate the fundamental rights to privacy and free speech, despite the United States Supreme Court's holding; and

WHEREAS, Family planning providers might be forced out of moral obligation, the exercise of their right to free speech, and their adherence to California's law on informed consent, to turn down federal Title X funding, thereby reducing the number of women served or closing family planning facilities; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California expresses its deep concern over the United States Supreme Court ruling in the case of Rust v. Sullivan upholding the regulations prohibiting health care professionals from counseling their patients on, or providing referrals for, abortion, and strongly supports federal legislation clarifying original congressional intent that Title X funding be used to provide unbiased and accurate information on reproductive health care for economically disadvantaged women; and be it further

Resolved, That the Legislature of the State of California strongly urges that the United States Congress enact clarifying legislation and the President of the United States sign the legislation into law; and be it further

Resolved, That the Legislature of the State of California registers its alarm that the United States Supreme Court ruling undermines a woman's fundamental right to privacy, including her right to choose an abortion; and be it further

Resolved, That the Legislature of the State of California reaffirms its support for protection of these rights for all women, including economically disadvantaged women; and be it further

Resolved, That the Legislature of the State of California expresses its serious concern that the United States Supreme Court ruling limits the First Amendment rights of free speech of health care professionals; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the President pro Tempore of the United States Senate, to each Senator and Representative from California in the Congress of the United States, to the Chief Clerk of the United States House of Representatives, to the Secretary of the United States Senate, and to the presiding officer of each house of the legislature of each of the other states in the

Union.

RESOLUTION CHAPTER 143

Assembly Joint Resolution No. 24—Relative to federal Supplemental Security Income program benefits.

[Filed with Secretary of State September 27, 1991.]

WHEREAS, The Secretary of Health and Human Services has responsibility for determining those opportunistic infections that represent a diagnosis of acquired immune deficiency syndrome (AIDS) for purposes of both epidemiological surveillance and eligibility for certain entitlement benefits; and

WHEREAS, The federal Centers for Disease Control, within the United States Department of Health and Human Services, are currently updating the definition of AIDS which has previously not acknowledged differential clinical manifestations of human immunodeficiency virus in various population groups, including, but not limited to, women and children; and

WHEREAS, The determination of presumptive eligibility for federal Supplemental Security Income (SSI) program benefits for a person with human immunodeficiency virus (HIV) has been based on the definition of AIDS by the Centers for Disease Control; and

WHEREAS, As a result, a person may develop HIV-related symptoms or opportunistic infections which render him or her incapable of working but that person cannot presumptively obtain certain benefits and services which target people with AIDS because, although he or she cannot work, the condition is not diagnosed as AIDS under the current case definition; and

WHEREAS, The federal Social Security Administration, within the United States Department of Health and Human Services, is currently reviewing the criteria to establish presumptive eligibility for SSI for symptomatic persons with HIV infection who cannot work; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorialize the United States Secretary of Health and Human Services to establish criteria for the determination of presumptive eligibility for federal Supplemental Security Income program benefits that include HIV-infected persons who have previously been unable to obtain that eligibility, including, but not limited to, women and children; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Health and Human Services, to the Speaker of the House of Representatives, and to each Senator and

Representative from California in the Congress of the United States.
